



A
COLLECTION
OF
PAPERS

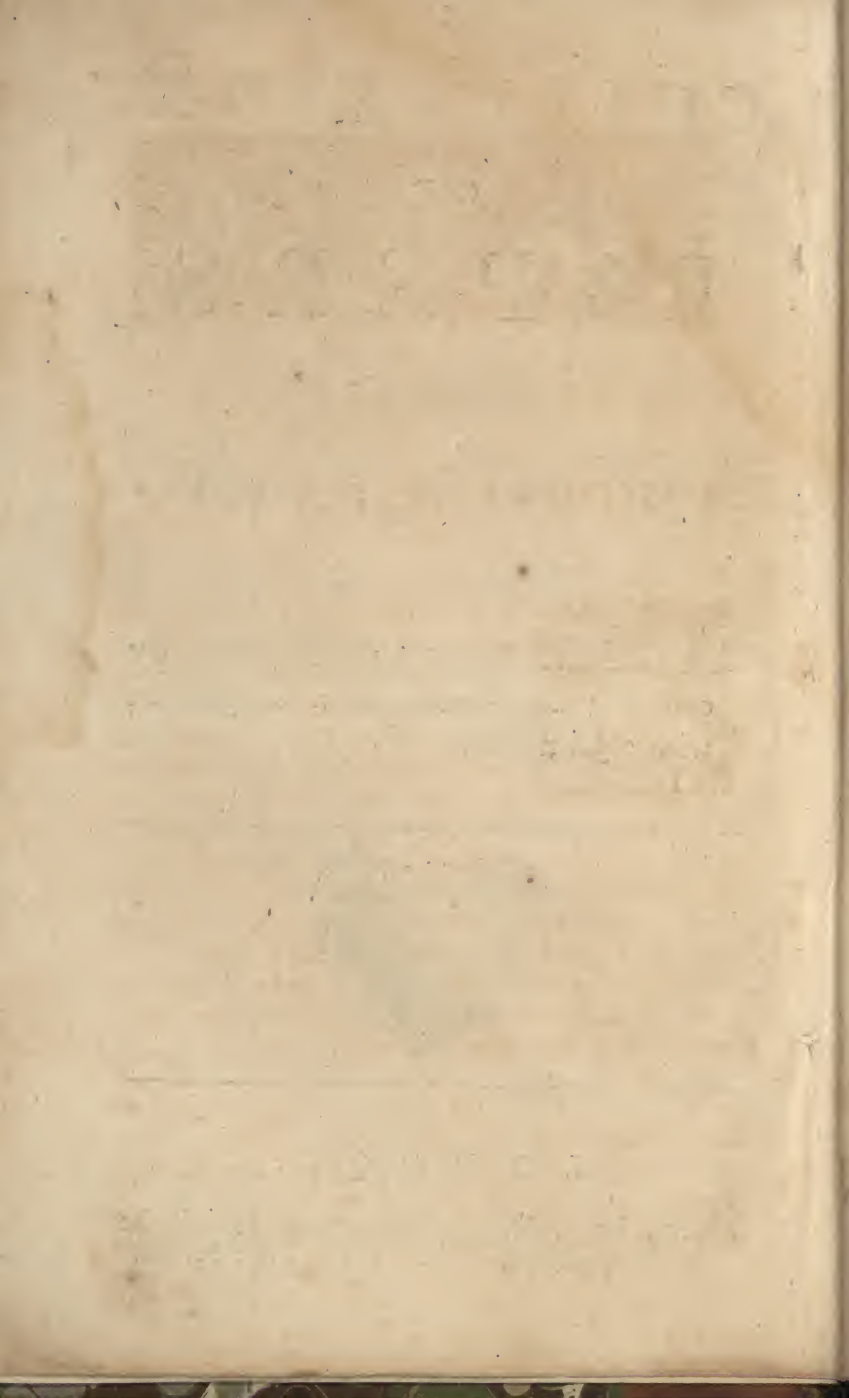
Relating to the
East India Trade :

Wherein are shewn
The Disadvantages to a Nation, by
confining any Trade to a Corporation
with a Joint-Stock.



L O N D O N :

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THE INTRODUCTION.



THESE Papers are Collected and Printed in Order to rouse Mankind to a Pursuit of the true Interest of the Nation, by laying before them in one perfect View, the Nature and Consequence of Monopolies and exclusive Companies to a free trading People. The first Paper contains the Arguments of one of the greatest Lawyers of his Age and Time, in the Cause between the East-India Company and Mr. Sands: The Second the Thoughts of a Gentleman upon the East-India Trade, who had been bred a Merchant, and had lived abroad, and who from his great Knowledge and Experience in Commerce, was appointed a Commissioner of Trade with Mr. Lock, and other Gentlemen, on the first Erection of that Board: The Third the Arguments which were generally made use of in Parliament, for the settling the East-India Trade in the Year 1697: And the Fourth and Fifth some Extracts from two Pieces, wherein Mention is made of the East-India Trade,
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the one Printed in the Year 1700; and the other in the Year 1717, which I imagine will be no unacceptable Present at this Time of Day, to the Merchant and Trader, and all other Persons, whose immediate Dependance is not upon, and whose greater Income does not arise from being concerned in Trading Corporations; and as it will appear from reading these Papers, what are the necessary Consequences attending any other of the Subjects of Great Britain, by confining any Trade to be carried on by a Company with a Joint-Stock, so it will necessarily arise in every Man's Mind, That however any Corporation may have the Sanction of Parliament for the carrying on a Trade, exclusive of all other their fellow Subjects, yet that notwithstanding, they are to all Intents and Purposes a Monopoly; and the very same Arguments which were formerly good against any exclusive Trades being carried on by Virtue of the Prerogative Royal, are equally now as strong against the allowing any Trade's continuing to be carried on by a Company, with a Joint-Stock, exclusive of the rest of the Subjects of this Kingdom; any longer than the Publick, with a strict Regard to Parliamentary Faith, may have the Means in its own Hands to prevent it.

But however demonstrably the Consequences attending this Nation, by confining any Trade to be only carried on by a Company with a Joint-Stock, are shewn in some one Part or other of these Papers, yet I should think my self inexcusable if I did not transcribe the following Passages from a very popular Writer, in the Years 1721 and 1722, as he has expressed himself in so strong and masterly a Manner on the Occasion, and set the Whole in so clear and full a Light.

‘ I do not wonder that those who subsist by Oppres-
‘ sion themselves, should countenance all other Sorts
‘ of it; ’tis their Common Interest to protect one an-
‘ other; but that the Country Gentlemen, who suffer
‘ by all kinds of it, and who have the Means in
‘ their Hands to prevent them, should suffer them-
‘ selves to be plundered and impoverished, to enrich
‘ Harpies and Pick-pockets, and enable them to live
‘ in Pride and Luxury, is so stupendious, that it
‘ could not be believed, if we did not constantly
‘ see it.

‘ But these are petty Abuses, when compared to
‘ the much greater Grievances of uniting great Num-
‘ bers of artful and Wealthy Merchants into Conspi-
‘ racies and Combinations against general Trade,
‘ and by that Means giving or selling the Industry
‘ and Acquirements of a whole Nation, to satiate
‘ and glut a few overgrown Plunderers, and in the
‘ end, to destroy the Trade it self; which must ever
‘ be the Case when committed to the Management of
‘ exclusive Companies. The Success and Improve-
‘ ments of Trade, depend wholly upon supplying the
‘ Commodities cheap at Market, and whoever can
‘ afford those of equal Goodness at but half per
‘ Cent. cheaper than his Neighbours, will command
‘ the Sale. Now ’tis impossible any Company can do
‘ this upon equal Terms with a private Merchant,
‘ nor would they if they could: Private Men will
‘ think of every Way to come at their Goods cheap,
‘ will make it their whole Business to work up the
‘ Manufacturies themselves, or buy them at the best
‘ Hand; will search narrowly into their Excellencies
‘ or Defects; will procure Carriages at the lowest
‘ Prices, see them Shipped themselves, and sometimes
‘ sell them in Person, as they find proper and advan-
‘ tageous Opportunities; and the mutual Emulation
‘ and

‘ and Contention with one another for the Preference
‘ of Markets, obliges them to sell often for little Pro-
‘ fit, and sometimes to Loss, in Expectation of better
‘ Fortune at other Times ; but nothing of this is ever
‘ done by Companies.

‘ Those who have the Direction of their Affairs,
‘ have often but small Parts of their Fortunes em-
‘ barqued in their Stock, and always have an Inte-
‘ rest separate from that of the Company, and com-
‘ monly, if not always, raise vast Estates at their
‘ Expence ; the Materials of their Ships, and the
‘ Commodities they carry, are generally sold by them-
‘ selves, or bought of their Friends and Relations by
‘ Confederacy, at exorbitant Prices ; favourite Ship-
‘ wrights are employed for Presents ; their Relations
‘ or Creatures are made Captains or Masters of their
‘ Vessels, to carry on private Commerce, to the De-
‘ triment of the Company ; Governors of Forts, Fac-
‘ tors and Agents are sent abroad to get great Estates
‘ upon the Publick, and perhaps share them with
‘ their Patrons at home ; their Goods shall be set in
‘ such Lots, and sold at such Times as shall be most
‘ for the private Interest of the governing Directors,
‘ who will have them often bought up in Trust for
‘ themselves or Friends ; and by these Means, as the
‘ Company oppresses the rest of the Nation, the Gover-
‘ nors and Directors cheat the Company. But if
‘ these Trustees are ever so honest, they will not take
‘ the same Pains for others as for themselves ; nor
‘ can it be expected that Men of their Fortunes will
‘ employ their whole Time for such Allowances as are
‘ or can be afforded by the Society who employs them.

‘ Besides, it is the Interest of the Nation to sell
‘ their Commodities at as good a Price as the Mar-
‘ kets abroad can afford to buy them, and to bring
‘ in foreign Commodities as cheap as they can afford
‘ to

' to sell them; especially such as do not interfere with
 ' our own, (which ought to be prohibited when it can
 ' be done without a greater Inconvenience) and the
 ' Interest of Companies is directly contrary to all this;
 ' for other People being prohibited to deal in the same
 ' Commodities, they can put what Price they please
 ' upon both, and ever will put what is most for their
 ' Advantage; and so starve the Manufacturer at
 ' home, at the same Time as their Agents charge
 ' great Prices to the Company, and sell the Commodi-
 ' ties they bring in return of them at extravagant
 ' Advantages, often to the Discouragement of our own
 ' Manufactures, which depend upon their Cheapness,
 ' their Business being always to encrease the Price of
 ' Stock, without encreasing Trade.

' Besides all this, they keep Forts abroad at a
 ' great Expence, to colour the Necessity of such Mo-
 ' nopolies, and to oppress and rob the Natives there
 ' with Security; for 'tis a Jest to imagine they
 ' can any Ways conduce to fair Trade: Every Na-
 ' tion in the World that has any thing to buy or sell,
 ' will see their Account in doing so, and will find it
 ' their Interest to encourage a fair Commerce, which
 ' will be ever for their own Advantage; and if
 ' they do not, there is no trading with them against
 ' their own Consents, though their Country is en-
 ' compassed with Forts, which will only provoke
 ' and make them Enemies; and in Fact, the pri-
 ' vate Traders to Africk paid the Company Ten
 ' per Cent. towards their Forts, and seldom or ne-
 ' ver came near them, or received any Benefit by
 ' them, and yet broke the Company whilst they thri-
 ' ved themselves. The same was true of the Inter-
 ' lopers to India formerly, who neither desired, nor
 ' were suffered to take any Advantage of the Com-
 ' pany's Forts, and always were oppressed by their

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‘Governors or Agents, and Captains of Ships, and
 ‘yet would soon have undone them, if they had been
 ‘suffered to go on.

‘The Dutch make other Advantages of their
 ‘Forts and Garrisons, which is to keep great
 ‘conquered Realms, and powerful Kings, in Sub-
 ‘jection, and secure to themselves the whole Com-
 ‘merce of their Countries, by which Means they
 ‘have the Monopoly of almost all the Spices in
 ‘the World; of which it is said, they every Year
 ‘burn Mountains to keep up the Price, as all ex-
 ‘clusive Companies will ever do; but we have
 ‘scarce any Trade to some of those Places, where
 ‘we are at the Charge of keeping Forts, which
 ‘stand there no Mortal can tell why. But sup-
 ‘posing Forts were necessary to carry on any par-
 ‘ticular Trade, what Colour is there to deny that
 ‘they ought to be kept at the publick Expence, or
 ‘by the Contributions of all the Merchants, who
 ‘are to receive Advantage from them, in Pro-
 ‘portion to the Trade they carry on; or what Pre-
 ‘tence is there to confine an advantageous Trade
 ‘to one Town alone, and to but few Men in that
 ‘Town.

‘So that upon the whole, if we consider these
 ‘Companies only as they regard Trade, which is
 ‘the only Pretence for establishing them, they are
 ‘the Bane of all fair Commerce, the Discourage-
 ‘ment of our Manufactures, the Ruin of Pri-
 ‘vate and Industrious Traders, and must end in
 ‘the Ruin of themselves, and all Trade whate-
 ‘ver; and no one receives Advantage from them,
 ‘but their Governors, Directors, Commanders, or
 ‘Agents at home and abroad, who have ever rai-
 ‘sed immense Estates, whilst the Kingdom has
 ‘been

' been impoverish'd, and the Company undone :
 ' But there are other Mischiefs still behind, which
 ' strike yet much deeper, namely, the Influence
 ' and Violence which they bring upon our Consti-
 ' tution.

' For, as great Riches in private Men is dan-
 ' gerous to all States, so great and sudden Pover-
 ' ty produces equal Mischiefs in free Governments,
 ' because it makes those who, by their Birth and
 ' Station, must be concerned in the Administration,
 ' necessitous and desperate, which will leave them
 ' the Means. and give them the Will to destroy their
 ' Country; for the Political Power will remain some
 ' Time in their Hands after their natural Power and
 ' Riches are gone, and they will ever make use of
 ' it to acquire that Wealth by Violence and Fraud,
 ' which they have lost by Folly and Extravagance;
 ' and as both of these Extreame are certainly true
 ' of single Men, so these are more dangerous in
 ' Numbers of Men joined together, in a Political
 ' Union; who, as they have more Wealth than any
 ' particular Man ever had, or can have, so they
 ' will have the separate Interest of every Individual
 ' to assist them, arising from the Dependence of
 ' Friendship, Relation, Acquaintance, or Creatures,
 ' without that Emulation and Envy which will al-
 ' ways be rais'd by the sudden and exorbitant Riches
 ' of private Men. 'Tis certain, that they both
 ' make too violent an Alteration in Property, and
 ' almost always produce violent Convulsions in Go-
 ' vernment.

' Now Companies bring all these Mischiefs upon
 ' us; they give great and sudden Estates to the Ma-
 ' nagers and Directors, upon the Ruin of Trade in
 ' general, and for the most Part, if not always, ap-

' on Thousands of Families who are imbarqued in
 ' the Society it self. Those who are in the Direc-
 ' tion, and the Secret of the Management, besides
 ' all their other Advantages, draw out and divide
 ' all their Principal, and what they can borrow up-
 ' on their Credit, perswade innocent and unwary
 ' People to believe they divide only the Proffits of
 ' their Trade, and by a Thousand other Artifices
 ' heightning their Advantages, draw them in to
 ' share in them; and when they have wound up the
 ' Cheat to the highest Pitch it can go, then like Rats
 ' leave a falling House, and Multitudes of People
 ' to be crushed by it. This was the Case of the
 ' East-India and African Companies formerly,
 ' whose Stock sold for Three Hundred per Cent.
 ' when it was not worth a Groat; and how far it
 ' is the Case of the present East-India Company, their
 ' Members are concerned to enquire.

' The Benefits arising by these Companies ge-
 ' nerally, and almost always, fall to the Share of the
 ' Stock-jobbers, Brokers, and those who cabal with
 ' them, or else are the Rewards of Clerks, Thim-
 ' ble-Men, and Men of nothing; who neglect their
 ' honest Industry, to embarque in those Cheats, and
 ' so either undo themselves and Families, or ac-
 ' quire sudden and great Riches; then turn awk-
 ' ward Statesmen, corrupt Boroughs where they have
 ' not, nor can have any natural Interests; bring
 ' themselves into the Legislature with their Pedling
 ' and Jobbing Talents about them, and so be-
 ' come Brokers in Politicks as well as Stock, they
 ' wanting every Qualification which ought to give
 ' them a Place there.

' It is a strange and unnatural Transition from
 ' a Fishmonger or Pedlar to a Legislator: How-
 ' ever,

‘ ever, as such doughty Statesmen, by their single Abilities, can do no Good, so they can do but little Harm; but when united in a Body, under the Direction of artful Managers, combining with great Men, they can turn all things into Confusion, and generally do so. When Men have great Sums of Money to give, and will give it, they will ever find People to take; and there can be no standing against them in a Body, how contemptible soever they are in Particulars. How often have the Cries of the whole Kingdom of England been able to prevail against the Interests of the East-India Company? What by proper Applications in former Reigns, made to our Courts, to Ministers and Favourites, and to the Members of each House of Parliament, they have been able to contend and get the Better of the Tears and Complaints of the whole Kingdom besides, and to lay asleep the true and real Interest of those who assisted them; and if ever hereafter our three great Companies should unite together (as ’tis to be feared they will alway do when their Interests do not clash) what Power is there in Being to oppose them, that will be able and willing to do it? In Holland, which is a more jealous Government than ours, the East-India Company governs the State, and is in Effect the State it self; and I pray God we may never see the like elsewhere.

‘ We have seen but few Instances where the private Traders of England, and the Interests of General Trade, have been able to dispute with the Interests of little Companies or particular Societies of Tradesmen, or the peculiar Privileges of Corporations, tho’ they are Burthens and a dead Weight on the Estates of every Person

‘ son in both Houses, lessen their Income, and increase their Expences ; such is the Fascination and Witchcraft of Political Confederacy ! What will be the Event of these Combinations, no Man can foresee, and every wise Man must dread. Indeed I don’t see how we can prevent their dismal Consequences, but by paying off our Debts ; and by dissipating those factious Combinations, dissolve the Enchantment.

‘ In fine, Monopolies are equally dangerous in Trade, in Politicks, and Religion : A free Trade, a free Government, and a free Liberty of Conscience, are the Rights and the Blessings of Mankind.

I leave every Reader to make his own Reflections upon these Passages, and to draw the necessary Conclusions from the Premises ; but it must be observ’d, that there are contain’d in them not only many undoubted Maxims and Truths, with Regard to a Nation’s Success and Improvement in Trade, but many hard Sayings with Respect to Gentlemen who have the Direction of the Affairs of great trading Societies, which I hope are not applicable in these our Days ; however, certain it is, that in former Times there were Directors of Societies who had always an Interest separate from that of the Proprietors, and commonly, if not always, rais’d vast Estates at their Expence ; but however virtuous the Chief Managers of Societies may be at present, it is certainly a Matter highly deserving the Consideration of those that have the Means of doing it, to put it effectually out of the Power of any Persons to practice it hereafter, but this, I fear, is only to be effected by putting an End to all Trading Societies ; which is very
well

well worth our doing, in regard it will not only in a great Measure destroy Stock-jobbing, but necessarily give Encouragement to Trade and Industry, by which only this Nation arriv'd to the Height of Greatness it is even at this Day, and can only have its Power and Riches preserv'd to it, and will become a great and more formidable People; for, as it hath been observ'd by a late *Writer, a large and extended Trade is the most certain and natural Way of encreasing the Wealth of any People, if it brings in a constant Addition of Gold and Silver to the National Stock; and on this depends the Weight and Influence which they will have amongst their Neighbours.

I have in some one Part or other of my Life consider'd the State of this Kingdom in almost every Period of Time, but I do not recollect there was any particular Period, all our Circumstances considered, when it was more, than at present, the Duty and Concern of every Man who wishes the Welfare and Prosperity of his Country, to apply his Time and Thoughts on Trade and Manufactures, Plantations and Navigation.

But as the Necessity we are under of taking some immediate Steps for the Preservation of our Trade and Navigation, and the Advantages which will necessarily arise to the Nation by encouraging our own Manufacturies and Colonies, are so fully explain'd and clearly shew'd by Mr. Joshua Gee, in his Treatise of Trade and Navigation, publish'd since these Papers went to Press, I am happily prevented from mentioning many Things relating to the Trade, Manufactures, Plantations, and Na-

* Considerations on the Debt of the Nation.

Navigation of Great Britain, which I had otherwise intended.

Thus much I have thought necessary to say by way of Introduction to these Papers, and have only to add, that they are publish'd with an honest Design to promote the Trade, Riches, and Power of Great Britain, and if any Good accrues to the Nation from them, it will be a sensible Satisfaction to me that, in doing my Duty, I have in some Measure contributed to its Greatness and Prosperity.





*The Argument of the Lord Chief Justice
Pollexfen, upon an Action of the Case,
brought by the East-India Company, against
Thomas Sands.*

*De Termino Paschæ, Anno xxxvi. Caroli II.
Regis, in Banco Regis.*

AN Action upon the Case, wherein
the Plaintiff declares, That,
Our Lord the King, by
his Letters Patent, reci- ^{3d Apr.}
ting that the Company of ^{13 C. II.}
Merchants trading to the *East-Indies* have been
long a Corporation, and enjoyed divers Liberties
and Privileges, by divers Grants from Queen
Elizabeth and King *James*.

That the King was informed, that divers In-
conveniencies and Disorders were committed, to
the Prejudice of the Company; at the Petition
of the Company, the King grants, ratifies, and
confirms to the Governor and Company of
Merchants of *London*, trading to the *East-Indies*,

That they should for ever be a Body Politick
by the Name of *Gubernatoris & Societatis
Mercator' de London in Oriental' Indiam nego-*
tiant'.

Ac eos per Nomen Gubernatoris & Societatis Merca-
tor' in Oriental' Indiam negotiant' Unum Cor-
pus Corporal' & Politicum in facto & nomine
realiter in perpetuum fecit, ordinavit, consti-
tuit, stabilivit, & declaravit per Literas Pa-
tes illas.

With Powers to purchase, sue, and be sued by the Name of Governor and Society of Merchants of *London, &c.*

And that they, and all those that then were, or should be of the said Company; and all their Sons at their Ages of 21 or more; and all their Apprentices, Factors, and Servants, who should be imployed by the Company, in the said Trade to the *East-Indies*, beyond the Seas, might traffick and use the Trade of Merchandize by Sea, by the Passages and Ways discovered to the *East-Indies*.

Beyond the Cape de *Bona Speranza*, unto the Straits of *Magellan*, in such Order, Manner and Form, Freedom and Condition, as from Time to Time, at any publick Assembly or Court, holden by or before the said Governor and Company; by or betwixt them of the said Company, or the greater Part of them present at such Assembly or Court, shall be limited or agreed, and not otherwise; any Diversity of Religion notwithstanding; so as the Trade be not with any Christian Prince or State in League with our King, who shall not accept of their Commerce, but refuse to accept the same.

And that the Company, their Factors, Servants, and Assigns in the Trade of Merchandize, shall for ever have the whole and sole Trade and Traffick, and the whole Freedom, Use and Privilege of trading and merchandizing, to and from the *East-Indies*, in such Manner as before mentioned.

And that the *East-Indies*, or the Isles and Places thereof, shall not be used or haunted by any of the King's Subjects, against the true Intent of the Letters Patent.

And

And by the same Letters Patent, the King commands all his Subjects, that none of them shall visit or frequent, or trade in the *East-Indies*, unless with the Licence and Agreement with the Company, first had under their common Seal.

That by Vertue of this Patent, the Plaintiffs have been, and still are a Corporation, trading to the *East-Indies*, with the Inhabitants thereof; who, at the Time of the Letters Patent granted, were not, nor yet are Christians, nor Subjects of any Christian Prince or State, but Infidels, Enemies, and Adversaries of the Christian Faith: And that their Trade hath been to the Profit of the whole Kingdom, and Encrease of the King's Customs. That this Trade cannot be carried on but by a Company or Body Politick.

And that from the making the Letters Patents, they have had, and ought to have had the sole Trade there.

That the Defendant *Sands*, being a Subject of the King's, but no Member of the Company, nor being Son, Factor, Apprentice, or Servant, or Assignee after the Letters Patent (*viz*) 19 Jan. 34 *Car. nunc*, to the *East-Indies*, beyond the Cape de Bona Speranza, and this Side the Straits of Magellan, in certain Places called *Atcheon*, *Mecklapaton*, and *Porto Novo*, with a Ship called *The Expectation*, hath traded and merchandized.

And divers Wares in the said Ship, to these Places transported, there bargained and sold, and other Merchandize there bought, and into this Kingdom imported, without the Licence and against the Will of the Company, *in eorum Prajudicium & Depauperationem manifestam*, and against the Form of the Letters Patent, *ad Damnum* of the Company, 1000*l*.

Plea. The Defendant demands Oyer of the Letters Patent, which are set forth *in hac verba.* And thereby, after the naming the Governor, the 24. and constituting a general Court of Assembly, and the Powers of Elections of their Officers.

That the King doth grant, as in the Declaration, so far as there mentioned.

But then in the Clause of Grant of sole Trade, at the End thereof, they have omitted this,

And that the said Governor and Company, and every particular and several Person that now is, or hereafter shall be of the Company, shall have full and free Liberty and Licence, in Form aforesaid, to and from the said *East-Indies*, according to the Orders, Ordinances and Agreements hereafter to be made at their publick Courts.

In the Recital of the Clause prohibiting others to trade without Licence under the common Seal, they leave out a Part of that Clause, which is this.

Upon Pain that every such Person that shall trade to or from the *East-Indies*, shall incur the Forfeiture of his Merchandize he shall bring into the King's Dominions, contrary to the Purport of this Charter; or which the Company shall find in the *East-Indies*, where they traffick; and also of the Ship wherein the Merchandizes are transported, one half to the King, the other to the Company, and Imprisonment of the Offender.

Then follows a Clause of Grant,
That the Company, for any Consideration or Benefit to be taken to their own Use, may grant Licence to any Stranger or other, to trade to or from the *Indies*.

Then

Then the King grants to the Company,
That the King will not, without the Consent
of the Company, give Licence to any to
or from those Places.

Then there is a Clause,

That none of the Company shall have a Vote
in the general Assembly, unless he have
500 l. in the Stock.

And after Oyer, the Defendant pleads the Statute of the 18 E. 3. c. 3. whereby 'tis enacted,

" That the Seas shall be open for all Merchants to pass with their Merchandizes wherever they please.

And that he, by Vertue thereof, did trade as in the Declaration alledged, *prout ei bene licuit.*

To this the Plaintiff hath demurr'd.

Before I come to state the Points and Questions, upon which this Question truly depends; I desire to shew what are not the Points or Questions in this Case.

1. It is not the Question, whether the King, by Law, can restrain any of his Subjects to go out of the Kingdom:

For the King may so do, and this without Distinction of Christian or Infidel Country, *pro hic & nunc*, as Occasion may be.

2. It is not the Question, whether the King can restrain all his Subjects to such a Country or City:

It may be done upon particular Occasions, as of War or Plague.

But from hence to argue, that the King can grant you and your Successors for ever, a sole Trade to such a Country or Place, excluding all other his Subjects, except with your Leave or Licence:

cence: Because he can restrain this or that Subject, therefore he can grant a sole Trade to the Plaintiff, and exclude all others, but you, and such as you license, for ever: Because he can, upon particular Occasions, as of War or Plague, restrain or prohibit his Subjects to go or trade to such a City or Country: That when there is neither Plague nor War, the King should grant a sole Trade to any particular Person, whether Body Politick or Natural, and restrain all others for ever.

Can this be by the Law done?

If this Foundation will warrant it, though in this Case this be with Infidels; and upon that Ground, some Difference imagined betwixt an Infidel and a Christian Country: Yet remember your Reason or Foundation doth not distinguish or make a Difference.

For if because the King hath Power to restrain or prohibit Subjects to go out of the Realm: Or by Occasion of War or Plague, all his Subjects from trading to such a City or Country; since this Power (you must agree) extends as well to Christian as Infidel City or Country;

The granting of sole Trade to one Subject or Body Politick, and restraining all others, is the same; whether it be to Christian or Infidel City or Country.

And when you cite the Statute of 3 Jac. 6. which enacts,

“ That the King’s Subjects shall freely trade
 “ to *Spain* and *Portugal*, notwithstanding the
 “ Charters of Incorporation granted to some
 “ Merchants, and the Prohibitions in those
 “ Charters:

And from thence argue, that because there were Prohibitions or Restraints by Charters, as
 to

to those Countries which were Christian, therefore such a sole Trade to an Infidel Country is well granted :

You must have it admitted, that such a Grant to those Countries is good and legal ; or else you argue from that which you grant not to be lawful, to prove another like Grant to be lawful. Or at least by the same Arguments and Reasons maintain such a Grant of sole Trade to be good, whether made to Christian or Infidel Country.

If then it not being the Point or Question in this Case,

Whether the King can restrain his Subjects from going beyond the Seas ? Nor,

Whether the King can lawfully restrain his Subjects to trade to a particular Country or Place, whether Christian or Infidel ?

Then the Questions plainly and shortly are,

1. Whether this Grant of sole Trade to the Plaintiffs, be a good Grant or not ?

2. Supposing that it should be ; then whether this Action be maintainable or not ?

1. By the Common Law, Trade is free and open for the King's Subjects. And this I shall endeavour to shew from Authorities.

Commercium jure Gentium commune esse debet, & non in Monopolium & privatum paululorum questum convertendum. Iniquum est, aliis permittere, aliis inhibebere Mercaturam. 3 Inst. 381.

The Taylors of *Ipswich's Case*, " That no Trade, Mechanick nor Merchant, " can be hindered by the Patent of " the King," a Patent that only 100 Persons shall use such a Trade, is void. 1 Role's Rep. 41.

Note, that by the Common Law, every Man may go out of the Realm for Merchandize, or travel without demanding Leave of the King. F. N. B. 85.

Stat. 5 R. 2. c. 2. “ Prohibited all but Great Men and Merchants to pass out of the Realm without the King’s License :” But this Statute is repealed by *14 Jac. c. 1.*

Dyer, 165. “ That every one may, at his Will, go with his Goods ;” and cites *F. N. B.* for it.

2. And in the next Place, That appropriating Merchandize and Trade to a particular Person or Persons, or a Body Politick, excluding others, is an engrossing such Trade : And that all ingrossing Trade is against the Common Law.

3 *Inst.* 196. That ingrossing any sort of Merchandize is an Offence at Common Law.

Dom’ Rex vers. Crisp. & al. In this Court lately, an Agreement betwixt divers Coprice Makers and Coprice Merchants, for the buying of all Coprice, that the Coprice Makers should, for three Years, make at so much a Tun, and restraining them from selling to any others :

Adjudged an Ingrossing, upon an Information in this Court.

And if a Company of Merchants should buy up, in like Manner, all the Merchandize of *Spain* or *Portugal*, or the *Canaries*, or other Town or Place for three Years to come : This I think would be an Ingrossing, and the Contract against Law.

For the Consequence of it must be, that they would sell at their own Price, and thereby exact upon the King’s Subjects. And your Patent, for the sole Trade to the *East-Indies*, invests you in all the Merchandizes of those Countries, and ingrosseth them all into your Hands.

And if a Patent grant to any the ingrossing of Merchandizes ; this Patent is against Law, and void. Ingrossing is in Truth but a Species, or another

another Name for monopolizing; for all the Difference between them is, that Ingrossing is commonly by Agreements and Contracts made betwixt Subjects one with another, without the King's Grant; but Monopolies are Ingrossings by Colour of the King's Grants.

The Case there of *John Peachy*, 3 Inst. 181. who 50. E. 3. was severely punished for a Grant under the Great Seal, for the sole selling of sweet Wines in *London*.

This was ingrossing by Colour of the King's Grant, and a Monopoly. Case of Monop. 11 Rep. 84. Moor. 673. and in Noy.

Darcey had the sole importing from beyond Seas, and selling of Cards, granted him by Patent for 21 Years, under a Rent, prohibiting all others to sell; and this, *Trin. 44 Eliz.* adjudged a void Grant.

And the Statute, 21 *Jac. c. 3.* declares all Monopolies to be against the Common Law. So that this being so; if this Grant be a Grant to you, to ingross or monopolize, then by the Common Law this Grant is void.

3. That this Grant of sole Trade is against *Magna Charta*, and divers other the ancient Statutes. 9 H. 3. Mag. Ch. c. 30.

“ All Merchants (if they were not openly prohibited before) shall have their safe and sure Conduct to depart out of *England*, and to come into *England*, to buy and sell without any Manner of evil Tolls, by the old and rightful Customs, except in Time of War.

My Lord *Coke* saith, “ That the Words in this Act [*nisi publice prohibeantur*] are intended a Prohibition by the publick Council of the Kingdom by Act of Parliament. 2 Inst. 57.

This Act then being general, all Merchants to have safe Conduct, to go out, and come into *England*, if not prohibited by Act of Parliament, is probably a Declaration of the Common Law.

Stat. 2 E. 3. c. 9. "That all Merchants, Strangers and Privy, may go and come with their Merchandizes into *England*, according to the Form of the Grand Charter.

Stat. 9 E. 3 c. 1. "That all Merchants, Strangers and Denizens, and all other, and every of them, of what Estate soever they be, shall sell their Merchandizes, from whencesoever they come, freely, without Interruption: Except the King's Enemies. And that this Act shall be observed and performed notwithstanding any Charters to the contrary. And that Charters to the contrary are of no Force, but are to the King's Damage, and to the Oppression of the Commons.

But your Charter gives you the sole Merchandizing to and from the *East-Indies*.

Stat. 14 E. 3. c. 2. Recites *Magna Charta*, and enacts, "That all Merchants, Aliens and Denizens may, without Let, safely come with their Merchandizes, safely carry, and safely return.

Stat. 25 E. 3. c. 2. Confirms the former Statute of 9 *E. 3.* and enacts, "That if any Letters Patent, Proclamation or Commandment be made to the contrary, it shall be void.

Stat. 2 R. 2. c. 1. and 11. c. 7. Both confirm the two former Statutes, and enact, "That all Letters Patent, and Commands to the contrary, shall be void.

By these four Statutes, the Freedom of Trade and Traffick is amply establish'd, and all Letters Patent, Grants, Proclamations, and Commands to the contrary made void, if they had not been so at Common Law.

And

And my Lord Coke, upon Consideration of *Magna Charta*, and these Statutes, after Examination of several Grants of Tolls and Duties to be paid upon Merchandize, saith, " That upon this Charter this Conclusion " is necessarily gathered, that all Monopolies, " concerning Trade and Traffick, are against the " Liberty and Freedom declared and granted " by this great Charter, and divers other Acts of " Parliament, which are good Commentaries " upon this Charter. 2 Inst. 63.

And then cites the other Statute that I have before cited.

Object. But say they, tho' we have the sole Trade, yet we are no Monopoly.

Resp. To prove it to be a Monopoly, let us see how a Monopoly is described.

My Lord Coke, in his Chapter of Monopolies describes it; *An Institution* 3 Inst. 181.
or Allowance by the King's Grant to any Person or Persons, Bodies Politick or Corporate, of or for the sole buying or selling, or using of any thing, whereby any Person or Persons are to be restrained of any Freedom or Liberty that they had before, or are hindred in their lawful Trade.

This Description, I think, exactly suits with your Patent. For

1. By your Patent you have the sole Trade granted to you.

Sole Trade is sole buying and sole selling : For Merchandizing consists in buying and selling.

Tho sole using any thing, is another general Part of this Description. Is not sole Trade, sole using or merchandizing ?

And for the latter Part of it, whereby any Person is restrained or hindred in his Liberty,

2. Your Patent grants to you to seize the Ships and Goods of any that come thither.

And your bringing this Action, shews you are sufficiently a Hinderer of the Liberty of others to trade.

So that I think you can't deny but that you are comprehended under this Description.

But for further Evidence of its being a Monopoly, let us see what the Evils and Mischiefs are that were in Monopolies which the Law speaks so hard of.

The Evils and Mischiefs are:

First, That the Price of the Commodity they sell, shall be kept and risen higher than otherwise it would be.

For, he that hath the sole Trade, will keep up the Price as he pleaseth. And this is one of the Evils mentioned in the Case of Monopolies, 11 Rep. 86. b.

The Truth hereof I think is evident enough, and no Man in Reason thinks but he that hath the sole Trade, trades for his Advantage: And the highest and dearest Rates he can sell at, and the cheapest he can buy at, are his Advantage.

Secondly, A second Mischief or Evil is, that Monopolies or sole Trade is *pro privato paululorum quaestu*. So it is said to be in the Margent of the Book before cited, 3 Inst. 181.

No Man will doubt hereof, that considers the present State or Condition of this Company.

Thirdly, Another Evil or Mischief of Monopolies or sole Trade, is the Impoverishment and Oppression of the King's Subjects.

Trade is not in its own Nature fix'd and stable, but varying and altering, sometimes better, sometimes worse. Sometimes one Trade beneficial, another not; according as Wares, Sickneses, Scarcity of this or that Sort of Commodity or Merchandize in this or that Country; Modes, Fashions, Customs and Habits of Men do occasion.

And

And the Merchants, by their Education and Observation, manage and govern this Trade, for the Maintenance of themselves and their Families, and the general good of Men. And direct and imploy their Estates, and traffick into this or that Part of the World, as Time and Occasion shall give them best Encouragement.

But sole Trade into this or that Part of the World, granted to one Company, and of another to another, sets up the particular Men that head the Companies, but destroys all other Merchants and inferior People.

Such Patents must undo all other Parts of this Kingdom besides *London*. For, the Companies can't drive these great Trades, but must manage them in *London*, and consequently, the other Parts of the Kingdom must be excluded. All Shipping must be subjected to the Rates and Prizes these Appropriators of Trade will give them; or else lye still and be destroyed. And so must all Masters of Ships, Mariners; all Artificers, Labourers, Factors and Servants, whose Employments depend upon these Trades, must all be subjected to their Wills.

And of how great Consequence that may be, deserves Consideration.

The Instances of your Oppressions and Dealings with your Factors, Captains, Servants and Seamen that got any Thing in their Service, are well known.

So that if the Evils and Mischiefs which the Common Law forbids, and endeavours to prevent, by judging all Monopolies, Ingrossings, and sole Trade unlawful, be to be avoided; The Evils and Mischiefs attending your Patent and sole Trade, are perhaps the greatest, because your sole Trade is the greatest that ever *England* knew.

That

F. N. Br. 222. That every Grant of the King hath this Condition implied in it, viz. *Quod Patria per talem donationem magis solito non oneretur seu gravetur.*

13 H. 4. 14. *Grant le Roy al charge ou prejudice del Subject est void.*

And if the Evils and Mischiefs of this Grant be as I have stated them; 'Tis a Grant to the Oppression and Prejudice of the Subject: And therefore the King is deceived in it, and the Grant by the Common Law void, as I have before shewn.

Object. But perhaps it may be objected, that this Patent is granted for good Government and Order, and Preservation of this Trade, which will otherwise be destroyed, and for the Good of the Kingdom: And there have been in all Times such Patents, as to *Turky, Barbary, Guiney*, and others.

Resp. 1. Remember what our Books say.

2 Inst. 540. That new Corporations, trading to foreign Countries, under the fair Pretence of Order and Government, in Conclusion, tend to the Hindrance of Trade and Traffick, and in the End prove Monopolies.

11 Rep. 88. b. In the End of the Case of Monopolies. *Privilegia quæ revera sunt in præjudicium Reipublicæ, magis tamen speciosa habent Frontispicia & boni publici prætextum, quam bonæ & legales concessiones.* But *prætextu liciti non debet admitti illicitum.* The Words of that Book.

And there also it appears, and is taken Notice of, that *Darcey's* Patent had a glorious Preamble, viz.

That the Subjects might exercise their Husbandry and lawful Employments, and not be corrupted to Idleness by the wicked Thing called Cards, the sole Sale and Trade of Cards is granted to *Darcey*. Ob-

Observe, says the Book, what a glorious Preamble and Pretext this odious Monopoly had.

That Patent which (made three Years after this, and dated 17 of *March*, 17 *Car.* 2. in Imitation of this) erected the *Canary* Company, and granted them the sole Trade, Recites, That the Trade to the *Canaries*, was of greater Advantage to the King's Subjects formerly, than at that Time: That by Reason the too much Access and Trading of Subjects thither, our Merchandizes were decreased in their Value, and the Wines increased to double Value; so that the King's Subjects were forced to carry Silver and Bullion there to get Wines.

Horn and Ivy,
Mich. 20. b. 2.
c. 403.

And that all this happened for Want of Regulation of Trade.

And thereupon the Patent constituted Sir *Arthur Ingram*, and about 60 Persons more by Name, and all others of the King's Subjects, Merchants or Factors, trading, or that had within seven Years, traded to those Islands, to the Value of 1000*l.* *per Annum*, and all others that after should be admitted, should be a Body Politick.

That there should be a Governor, a Deputy-Governor, 12 Assistants, and names them; but to be continued by Election.

That they should have the sole Trade to these Islands. And that none other should haunt or visit those Islands, under Pain of Forfeiture and Imprisonment: With *non obstante* to the Statute of Monopolies.

Judgment was given against this Patent.

Here is in this Case, the same Pretence and Preamble, as in yours. The Abuse of the Trade, and the Regulation of it, for the general Good was the Thing pretended, but few Men doubt what was intended.

Un-

Under the Name of Regulation and Government, to ingross all into the Hands of 10 or 12 Men, is most excellent Regulation and Government.

Resp. 2. And as to other Companies and Charters that have been granted.

Supposing that all these Grants were such as this, and practiced and used as this; yet 'tis no Argument that they were legal or good Grants.

Have not there been in all Ages and Times, Patents and Grants, such as by Law were void and of no Force? If it be so, it is no Argument that because there have been many such Grants, therefore this is good.

But to keep myself to Monopolies.

Monopolies have been frequently in all Times granted; even in the best of Times; many by Queen *Elizabeth*. *Darcey's* was granted by her. In the Recital thereof it appears, that there had been granted before it, divers others of that Monopoly of sole selling and making Cards.

But when it came in Question, it was condemned.

Stat. 9 E. 3. c. 1. And the other Statutes before cited. The Clauses that say that all Patents granted or to be granted, contrary to the Freedom of Trade, in these Statutes mentioned, prove,

1. That such Patents had been.
2. That they did foresee and provide against those that would be.

43 *Eliz. c. 1. Sect. 9.* That Proviso shews that there were Monopolies granted; but yet so far from receiving any Allowance, that that Statute made in the End of her Reign, for confirming her Patents by special Proviso, excepts and provides,

That

That that Statute shall not extend to make good any Letters Patent made or granted, of and concerning Licences, Powers, or Privileges, commonly called Monopolies.

The Statute of Monopolies, and this Statute, sufficiently shew that there were such Grants, and that they were not allowed. This therefore is no Argument.

But on the contrary, it hath not, nor cannot be shewn (as I believe) that ever any had any judicial Allowance in any Times past for any sole Trade, or sole buying or selling, which is a great Argument to the contrary. And further,

The Practice of these Companies hath been generally to the contrary; and till within these late Years, no sole Trade practiced amongst them.

This and the Charters to the Companies of *Turkey*, and the rest, perhaps are in this particular alike (*viz.*) that there is in Words granted to them the sole Trade: But the Use and Management of these Charters vastly differ.

For the great Companies, *Turkey*, *Muscovy*, *Russia*, and *Hamborough* Companies, they trade not by any joint Stock, but the Members of each Company, every Man uses his own Trade, buys and sells his own Commodities, hath his own Servants, Factors, and Employers.

They take Care, by sending out Consuls and Agents, to preserve the Trade; and by small Imposts maintain such Consuls and Agents.

They take Care that the Market be not overstock'd or glutted with Commodities they send out; and therefore only order what Ships shall go, but leave to every one of the Company to send his Merchandize at his own Will and Pleasure.

They trade not upon any Joint Stock, or the Stock of the Body Politick. If you deal with
D any

any of them, you know your Chapman: No Man is refused to be free of their Companies that hath a Mind, paying some small Sum for his Freedom.

But this Company of the *East-Indies*, are of quite another Nature, and use their Patent to quite another End.

The *East-India* Company trade only upon the Company's Stock; every Man, whether Merchant or not, if he can buy such a Share in their Stock, is of their Company.

The Committee manage, and the rest must submit to their Pleasures and Distributions: Those few of them that have the most Shares, have the Disposal of the whole Stock: No Member trades, buys or sells, or hath any Thing that he calls his own, but only such a Share in the Stock: No Member of theirs either buys or sells his own Merchandize, or employs any Factors or Servants. The Body Politick, the invifible Corporation, trade, perhaps for 1000000 *l. per Annum*. They get into their Hands, and sell perhaps 7 or 800,000 *l.* worth of Merchandize at a Time: The three last Sales that they made, came to 1,800,000 *l.* No Body hath these Commodities but they.

Is this trading, and no ingrossing, or no monopolizing? 'Tis their wonderful Vertue, their Hatred and Contempt of Riches that makes them not to raise and encrease Values and Prizes, and be as rich as they please, if they do not do it. No Man is admitted to come into their Company, by their Patent, to have a Vote, unless he have 500 *l.* in their Stock; which values above 1500 *l.* to be bought: So that by the very Foundation, they can have no more Persons in their Company, than they have 500 *l.* Shares, and these Shares being ingrossed into few Hands,
the

the few Hands have all, and call themselves the Company.

So that Men that will not be deceived by Words, but distinguish things different one from the other, will distinguish betwixt one Company and Society, and another; who are Ingrossers and Monopolizers, and who not.

The *Turkey* Company, and the rest like it, may truly be said to be Managers, Regulators, and Improvers of Trade. They have no Joint Stock that they trade upon; they ingross not; they admit every Man that will, to be free of their Companies, to trade with his own Money, his own Credit, and buy and sell his own, and to imploy whom he pleaseth, and none amongst them, under Pretence of Government, Regulation and Preservation of Trade, makes unreasonable Advantages.

But the invisible *East-India* Merchant, the Body Politick, covers and countenances some few Men amongst them, to engross, buy and sell at their own Rates, and excludes all others from the great and excessive Advantage of the few.

The other Companies, as the *Turkey*, &c. have not any sole buying or selling; nor exercising any sole Trade or ingrossing. Every Member of these Companies, which are a Multitude, and every one that is not, may, if he will, be a Member; no Man is excluded.

But this Company quite contrary; and therefore if ever any was, these are great Engrossers and Monopolizers of Trade.

I do not argue or speak against Companies, nor regulating or managing Trade (which was the true Intent of this Patent) such as I have mentioned, and is vertuously and commendably practised in the great Companies of *Turkey*, *Muscovy*,

copy, *Hamborough*, and others, where the Members of the Company trade upon their own particular Stocks and Estates, and no Merchant hindered or denied to be a Member, that desires it, paying his ordinary Fees of Admission :

But against the invisible Merchant, this politick Capacity trading in joint Stocks.

Suppose a like Patent to any one, or two or three Men, Farmers or Partners, in their private Capacity, of this sole Trade ; and they had the Management of it, and thereby Possessors of such vast Wealth and Merchandize.

What would this Politick Body (I mean the principal Members, for the Body can't think or have Sense) judge of it ?

Perhaps yours is much worse, there a Man should know with whom he dealt, who were his Debtors, and how to come to them ; but dealing with you is a Kind of dealing with Spirits, an invisible Body subsisting only in *intelligentia legis*.

Therefore being so unlike the other Companies, and so contrary to them, you ought to have no Countenance from them ; and though they are good and commendable, you are Ingrossers and Monopolizers.

3. But to proceed and consider the Statutes made against Monopolies.

Stat. 21 Jac. c. 3. By which 'tis enacted,
 “ That all Monopolies, Commissions, Charters,
 “ and Letters Patent, granted, or to be granted
 “ to any Person or Persons, Bodies Politick or
 “ Corporate, of or for the sole buying or selling,
 “ or using any Thing within this Realm ;
 “ And all Proclamations, Inhibitions, and
 “ Restraints, and all other Matters and Things,
 “ any way tending to the instituting, erecting,
 “ fur-

“ furthering or countenancing the same, are
 “ contrary to the Laws of this Realm, and shall
 “ be utterly void, and of none Effect.

“ And that all Persons, Bodies Politick and
 “ Corporate, which now are, or hereafter shall
 “ be, shall stand and be incapable to have, use,
 “ exercise, or put in Use any Monopoly, or
 “ any such Commission, Charter, Letters Patent,
 “ Inhibitions, and Restraints; by any Liberty,
 “ Power, or Faculty granted upon them.

Then follow Clauses of Forfeiture of treble
 Damages to the Party grieved by the using any
 such Monopoly.

Then the Proviso's for new Inventions, and
 several other Things.

Then the Proviso concerning Corporations,
 which, as to this Case, is thus;

“ Provided also, and be it enacted, that this
 “ Act shall not extend, or be prejudicial to the
 “ City of *London*, or other City or Towns
 “ corporate, for or concerning any Charters
 “ granted to them, or any Customs used within
 “ them.

“ Or unto any Corporations, Companies, or
 “ Fellowships of any Art, Trade, Occupation,
 “ or Mystery.

“ Or to any Companies or Societies of Mer-
 “ chants erected for the Maintenance, Enlarge-
 “ ment or Ordering of any Trade or Merchan-
 “ dize.

“ But that the same Charters, Corporations,
 “ Companies, Fellowships, and Societies; and
 “ their Liberties, Privileges, Powers, and Im-
 “ munities, shall be and continue of such Force
 “ and Effect as they were before the making of
 “ this Act, and of none other; any Thing in
 “ this Act to the contrary notwithstanding.

The next Provifo extends to Patents, granted or to be granted for Printing, making Salt Peter, Offices, &c. Which do not concern the Cafe in Question.

By the Description of a Monopoly, which I have before, out of my Lord *Coke*, ftated and expreffed ; This fole Trade granted to you, and the Exclufion of all others, is a Monopoly within that Description, as I have before fhewn.

That your Charter is directly contrary to the enacting Clause of this Act. For you have by your Charter granted,

Sole buying.

For all others are prohibited as much as to come or go into the *East-Indies*.

Sole felling.

All others are prohibited to import into this Realm ; and they can't fell here unlefs they can import.

Sole ufing.

For you have granted to you the fole Trade, which includes all buying, felling, fole ufing. That appropriates all to your felves, and excludes all others.

How can your Letters Patent and this Statute ftand together ?

When the Statute faith, “ That all Letters Patent, granted to any Body Politick, of or for the fole buying, felling, or ufing any Thing, fhall be void ;

How can yours be good ?

When the Statute faith, “ That all Inhibitions, Reftraints, and other things any way tending to the inftituting, erecting, furthering, or countenancing any fuch fole buying, felling, or trading, fhall be void ;

How can yours be good ?

When

When the Statute saith, “ That all Bodies Politick and Corporate shall hereafter stand and be incapable of having, using, exercising, or putting in ure any such Charter, Inhibition, or Restraint;

How then can the Plaintiff, in this Case do it ?

In the Comment upon this Statute, ^{3 Inst. 182.} ’tis there said, that this Act is forcibly and vehemently penn’d for the Suppression of all Monopolies.

And the Words [*Sole using*] is there said to be so general, as no Monopoly can be raised, but will be within the Reach of this Statute.

The Word [*any thing*] shews also the general Scope and Intent, that nothing should be excluded that was a Monopoly.

Object. But the Provifo excepts Charters to Companies or Societies of Merchants, erected for the Maintenance, Enlargement, or Ordering of any Trade or Merchandize.

Resp. 1. This Provifo extends not to this Charter, or any Letters Patent granted after the making of that Act. And this appears from the penning of the Provifo.

The enacting Clause saith,

“ That all Letters Patent, granted or to be granted for sole buying any thing, shall be void.

The Provifo saith,

“ That this Act shall not extend to, or be prejudicial to Towns Corporate concerning any Charters granted to them, or Customs used by them.

“ Or to any Companies or Societies of Merchants, erected for the Maintenance, Enlargement, or Ordering of any Trade or Merchandize.

This extends to those that were granted and erected. Here is no Words of salving for any that should be hereafter granted or erected : The Words [*hereafter to be granted,*] would have been in this Clause of salving, as well as in the enacting Clause, if ever so intended. But the following Words concluding this Proviso further shew it.

“ That the Charters, Corporations, Companies,
 “ nies, Fellowships, and Societies, and their Liberties,
 “ Privileges, Powers and Immunities shall
 “ be and continue as they were before the making
 “ of this Act.

This governs and concludes the whole Proviso, and extends only to those that then were, to leave them as they were. That is,

To leave the Charter and Companies, their Powers and Privileges in the same State and Condition as they were before this Act.

The Beginning of the Proviso saith, this Act shall not Prejudice them; the Conclusion saith, they shall be as they were before this Act was made.

Therefore those that were excepted, must have a Being before this Act : No Words therein extend to those that then had not a Being.

The next Proviso for Printing, Salt-Peter, Offices, &c. expressly provides for Patents granted or to be granted.

This (if so intended) would no doubt in like Manner be penn'd.

Resp. 2. But suppose it should be construed to extend to Companies, Privileges and Immunities erected and granted after this Act.

Yet you are not within this saving.

1. For it extends only to Companies and Societies erected for the Maintenance, Enlargement or Ordering of Trade or Merchandize, and to their

their Powers and Privileges that they have for that End.

Not to Companies and Societies erected to have a sole Trade by a joynt Stock, or a Stock of the Corporation, excluding all others.

The *Turky* Company, *Russia* and *Hamborcugh*, and other Companies, trade not as Bodies Politick, or upon joynt Stocks, but every Merchant that will, may be thereof a Member, and every Member thereof trade upon his own private Stock and Account as a Merchant.

These Companies only order and consult for their Maintenance and Preservation, and not for ingrossing, and cousening their Members.

These are the Corporations that are within this Exception and Proviso.

But we must be as silly as the Infidels you deal with in these Matters, not to distinguish betwixt these Corporations and their Management, and yours.

They exclude none from Trade ; they trade not in a publick Capacity, in a sole Stock, but every Member is a Trader upon his own peculiar Stock.

But you take upon you in your politick Capacity, as you have expressed in your Declaration,

Totum integrum & solum commercium & negotiationem habere uti & gaudere.

And to exclude, not only all Strangers, but all your own Members to have any distinct or separate Trade upon their own Account (except a little to excuse you to pay off Charges) and thereby ingross all that vast Quantity of Merchandize.

The many 100000 *l.* worth you bring in and carry out : In whom is the Property ?

In the Corporation.

Who buys and sells all ?

The Corporation.

E

Who

Who are the Debtors for the Money that buys and provides these Merchandizes?

The Body Politick, the Corporation, the invisible Body.

Who shall be sued for these Debts?

The Body Politick.

Sue them as you can, they will either be too rich and great to contend with, or else in that Condition as you know not how or where to have them; they are an invisible Body subsisting only in *intelligentia legis*, a Body Politick, without Soul or Conscience, as the Law says it to be.

We have seen them in a Year's time in both these Qualifications; so great as scarce any Man will contend with them; so invisible at another time, as a Dun could scarce find them.

This surely can't be for the Maintenance or Enlargement of Trade, to deal with I know not whom, where no Security or Person is subject.

It is indeed for the Maintenance of the Company's Trade, to enable some of them to get 10 or 20000 *l. per Annum* by it, and to keep this vast Trade in a few Hands.

But sure this is not the Trade the Proviso intends.

Restraining to the Body Politick, which is but one Person or Man in Partnership, is quite contrary to the Enlargement in the Proviso mentioned.

And therefore, to say that you are within the saving, by this Proviso; a Company erected for the Maintenance and Enlargement of Trade, when you restrain all but your selves to trade, seems to be a Contradiction.

And for the following Words in the Proviso,
[*Or ordering of any Trade or Merchandize,*]

If you say you are saved within the Extent of these Words, then must you make a Construction of these Words in this Sense;

That

That ordering Trade and Merchandize is excluding all others, and taking the whole to your selves.

A most excellent ordering indeed.

But the true Sense of these Words in this Proviso, is to save the Corporations and Fellowships of Arts, Trades, Occupations and Mysteries, and to Companies of Merchants, the Powers and Authorities that they had for the Maintenance, Enlargement, or ordering of Trade.

By taking Care that the Commodities were honestly and rightly made, without Fraud or Deceit in their Measures or Quantities.

That the Servants and younger Sort were honest, and industriously educated in their Trades and Mysteries, by the Masters and elder Sort.

To place and keep good Order and Decorum amongst those of the same Mystery and Trade.

For assembling and consulting for the common Good, and Management of their respective Trades and Employments.

This is that which the Proviso exempts and provides for.

Not for a sole Trade in a Company, in a joynt Stock, excluding all others as this is.

The Company there made a By-Law, to exclude Taylors from using their Trades within that Town, unless by the Master and Wardens of the Company, or three of them, admitted to be a sufficient Workman.

*Taylors of Ipswich
Case, 11. Rep. 54.*

In this Case here seemed to be a good End and Meaning, to exclude insufficient Workmen, and encourage good Workmen; a good Order one might think.

Yet so jealous and careful they then were, lest, under any Pretence they should exclude Men from their lawful Trades, that they adjudged this a

void By-Law, as tending to restrain Men of their Freedom in using their Trades, and introducing Oppression of the young Tradesmen, by the old and rich Tradesmen.

And in that Case adjudged,

That Ordinances for the good Order and Government of Men of Trades and Mysteries are good, but not to restrain Men in their lawful Mystery.

To the same Purpose is *Norris and Stop's Case*, *Hob. 211.*

So that this being the Sense of this Proviso, to except Powers and Authorities that Companies have to regulate Trade, for the Maintenance and Enlargement of it, but not to restrain any from their Trades or lawful Mysteries, it extends not to salve or preserve such Authority or Power in you to have a sole Trade, excluding all others.

2. For another Reason, it cannot be the Sense of this Proviso, to except or save to any Body Politick, the buying in their publick Capacity, a sole Trade.

The Proviso then will be repugnant and contradictory to the enacting Clauses. For taking the Proviso as they would have it;

To save to Bodies Politick the having the sole buying and selling, and using any Merchandize or Trade as a Corporation, and then compare the Proviso with the enacting Clause, and it will be just thus,

“ Enacted, That Letters Patent to any Body
 “ Politick, for sole buying, selling, or using any
 “ thing, shall be void. And that no Body Po-
 “ litick, shall be capable of having, using, or
 “ exercising any such Patent, Inhibition, or Re-
 “ straint.

“ Provided that Bodies Politick may have the
 “ sole buying, selling, and using any Trade:

Is not this in plain *English*, repugnant and contradictory? Examine it as much as you can, and it will be no other than a down-right Contradiction.

Suppose the Statute that enacts, that no Man shall use a Trade that he hath not served an Apprentice to by the Space of seven Years, had a Provifo,

That Men might use a Trade that they had not served an Apprentice to by the Space of seven Years.

This had been a void, repugnant Provifo.

This is as plainly repugnant,

That no Body Politick shall be capable of having a sole Trade,

Provided that a Body may have a sole Trade.

And repugnant Provifos are in Law void.

Statute gives the Land of *J. S.* to the King: Then a Provifo comes to save the Right of all Persons.

1 Rep. 46. Pl. Com. 563.

This shall be construed, all Persons besides *J. S.* not to destroy the Premises.

Therefore when the Act saith, “ That all Patents granted to Bodies Politick for sole buying and selling, or using any thing, &c.

Shall the Provifo that saith, That it shall not extend or be prejudicial to Companies of Merchants erected for the Maintenance, Enlargement, or ordering of Trade;

If construed in the same Sense that they would have it, give the Companies sole buying, selling, and using any thing as Companies in their Corporate Capacity; it is repugnant and contradictory.

But to give the Companies the Management, Order, and Government, is the Sense, as I conceive.

And this is the general Practice of the Societies and Companies allowed in all times.

But

But a sole Trade under the Colour and Pre-
tence of Order and Management, never, as I be-
lieve, hath had any judicial Allowance.

Object. Another thing that the Counsel of the
other Side have objected to evade this Act, hath
been this. The Proviso is ;

That the Act shall not extend to Companies of
Merchants erected for Maintenance and Order-
ing of Trade ; but that their Charters, Liberties,
and Privileges shall be of like Force as they were
before the making this Act.

And therefore, say they, Patents to Companies
of Merchants for ordering Trade, if good before
this Act, shall be good still ; and therefore, say
they, the Act can't hurt us.

This is curious ; but if examined, is but the
same Objection in other Words.

For the Conclusion of this Proviso extends no
further than the Charters mentioned in the Be-
ginning of it : It extends but to the same Char-
ters ; so are the very Words.

What Charters or Patents then shall remain in
the same Force they were before the Act ?

Those that are excepted.

What are excepted ?

Those that are for Order and Management ;
as I have before shewn.

Not those that are for sole Trade granted to a
Body Politick. That is repugnant to the enact-
ing Clause ; therefore these (as I have said) are
not excepted, or within the Proviso.

If then not excepted, you are most plainly
and fully within the enacting Clause, and your
Patent quite contrary to, and void by this Act ;
unless the Matter of Infidel will save you.

Object. But this is a sole Trade with Infidels,
and such a Trade the Subject had never any Right
to

to have without the King's Licence. And to prove it, they cite *Michelburne's Case*.

Wherein Mr. *Blownlow*, being Prothonotary, doth relate what my Lord ^{2 Brown-}*Coke* said, That no Subject of the King might trade with any Realm of Infidels, without the King's Licence.

And that the Reason was because he might relinquish the Catholick Faith, and adhere to Infidelism: And that he had seen a Licence in the Time of *E. 3.* where the King recited the Confidence that he had in his Subject, that he would not decline his Religion; and so licensed him.

And that this did arise upon the Recital of a Licence made to trade to the *East-Indies*.

They cite also *Calvin's Case*, 7 *Rep.* 17. where 'tis said, That Infidels are *perpetui Inimici*; there is perpetual Hostility, there can be no Peace; an Infidel can maintain no Action, nor have any thing within this Realm; and to prove this there is cited, *R. 282. 12 H. 8. 4.*

1. Supposing the Law to be as these Books intend, and as the other Side urge them, and the Consequence will be, that the Plaintiff can't maintain this Action, but that the Charter granted to them, is void.

The Reason that is given in *Michelburn's Case* is grounded upon this: That the King hath the Care and Preservation of Religion, by the Law, vested in him: That his Subjects shall not trade with Infidels, lest thereby they may be brought to relinquish the Catholick Faith, and adhere to Infidelism: And that the King shall take Care, that Licences to trade be only given to such as the King hath Confidence in, that they will not decline their Religion.

Supposing this, then your Patent must be naught, for then it is only grantable to Persons in whom such Confidence may be. 1. Your

1. Your Corporation or Body Politick is indefinite as to Persons; the Members thereof are daily changeable; some go out, sell their Stocks, or die; others buy their Stocks, and are daily coming in to be Members of your Company.

I doubt you do not much examine, nor care how fixed or certain those are in Religion, that come into your Company.

How then can there be any Confidence in a Body Politick?

The Law saith, that a Body Politick hath neither Soul nor Conscience: What Confidence then concerning their Religion can there be in a Body Politick?

2. 'Tis not only the Members of the Company that were at the Time of the Corporation, but those that after should be Members, and their Sons, their Apprentices, Factors, and Servants that are licenced by this Patent.

If licencing to trade with Infidels be a Trust and Prerogative in the King, to be given to such Persons in whom the King can have Confidence, that they will not, by conversing with Infidels, change or prejudice;

This can't be granted to a Body Politick and their Successors, which may have Continuance for ever; or to their Sons, Factors, Apprentices, and Servants; Persons altogether unknown, not born, nor *in rerum natura*, when the Patent was made.

Suppose such a Licence to you to trade with Enemies. I say,

3. Supposing it to be in the King's Prerogative, in Preservation of Religion, to licence; yet he can't grant this Prerogative to you, that you shall have Power to grant Licence to whom you will.

Yet all this is done by your Patent ; for you have not only thereby Power granted you for your Apprentices, Factors and Servants, which are Persons that you your selves nominate and appoint at your Discretions ; and undoubtedly very religious :

But by your Patent it is expressly granted, that the Company, for any Consideration or Benefit to themselves, may grant Licences to any Merchant, Stranger, or other, to trade to or from the *Indies*.

And that the King will not, without the Consent of the Company, licence any other to trade.

Can this be a good Grant ? Can the King grant from himself his Kingly Care and Trust for Preservation of Religion, to you, that you shall manage it, and that the King will not use such his Power without your Consent ?

So that supposing that there is, by the Law, such a Trust reposed in the King, for Preservation of Religion, as you would have it ; yet the Grant to you is void in it self ; and then you have no more Right than we, and consequently can maintain no Action against us.

2. To consider the Books that you have cited to maintain this religious Point.

1. *Brownlow's Reports*, a Book printed in the late Times, not licensed by any Judge or Person whatsoever.

The Roll is, *Michelburn* against *Bathurst*, setting forth, that the King had granted the Plaintiff his Commission to go with his Ship *Tiger*, to the *East-Indies*, to spoil and suppress the Infidels, and to take from them what he could. That there were Articles betwixt the Parties for Ac-

Mich. 7 Jac. B.
C. Rot. 3107.

count and Shares of what should be got; and upon those Articles a Suit in the Admiralty.

And what is it that is in the Case? Nothing to the Purpose; but the Book mentions only what my Lord *Coke* said upon the Motion for the Prohibition: Only a sudden occasional Saying, not upon any Argument or Debate, nor to the then Case.

So that a Man must be very willing that will much rely upon such a Saying, I can't call it an Authority.

2. For *Calvin's* Case;

That an Infidel is *perpetuus Inimicus*, and can maintain no Action, or have any Thing, and that we are in perpetual Hostility, and no Peace can be made with them.

It is true, that this is said in *Calvin's* Case; but there was nothing there in Judgment that gave Occasion for it, so that I cannot think that it was much considered before it was spoken.

The Books there cited to prove it are, *Reg.* 282. And all that I can find therein, is, that in a Writ of Protection, granted to the Hospitalers of the Hospital of St. *John's* of *Jerusalem*, it is said, that the Hospital was founded in Defence of the Holy Church, against the Enemies of Christ and Christians.

But doth this prove, that Infidels are *perpetui Inimici*, with whom no Peace can be made, and that they can maintain no Action?

The other Book cited is, 12 *H.* 8. 4. a Trespass brought for taking away a Dog, and in the debating whether this Action did lye or not; it is said,

That if the Lord beat his Villain, an Husband his Wife, or a Man out-lawed, or a Traitor, or

a Pagan, they shall have no Action, because they are not able to sue an Action.

So that this also is but Discourse, and sudden Thoughts and Sayings, where the Thing was not in Question: And what Authority is there in such Sayings? It is true, that Christian Religion and Paganism are so contrary one to the other, as impossible to be reconciled, no more than Contradictions can be reconciled.

But because they can't be reconciled, that therefore there should be perpetual War betwixt them and us, perhaps is an irreligious Doctrine, and destroys all Means of converting Infidels to the Faith.

And besides, these extrajudicial and occasional Sayings in these Books cited, are of little Authority: For I can't find any Book or Case, much less Judgment or Authority, for such Opinions in so great a Point as this is.

But on the other Side, if a Man considers the general Course and Practice, Trade and Commerce, and legal Proceedings; a Man would think, that my Lord *Coke* could not be in earnest in what he hath said about Infidels.

For let a Man consider what a great Part of the World we have Commerce with, that are Infidels, as *Turks*, *Persians*, the Inhabitants of *Barbary*, and other Countries.

Spain and *Portugal* were also possessed by the *Moors*, who were Infidels, till about the Year 1474. about 200 Years since they were driven out, for till then, for near the Space of 700 Years the *Moors* possessed both *Spain* and *Portugal*.

Have we not Leagues and Treaties with the Princes and Inhabitants of the Infidel Countries, receiving Embassadors from them, and sending Embassadors to them, and Ministers always re-

siding with them? Have we not from Time to Time, Peace or War with them in like Manner, as with Christian Kings and Countries?

If Infidels be *perpetui Inimici*, if in perpetual Enmity, then we may justify the killing of them, as those that we are in Hostility with, wheresoever we meet with them.

17 E. 4. 13. b. 2 H. 7. 15. Adjudged that any Man may seize and take to his own Use, the Goods of an alien Enemy.

'Tis the Prize of his Adventure and Victory over his Enemy.

If an Infidel be an Enemy, any Man may then take away the Goods of an Infidel, and have them to his own Use: And this would be a good Trade if this be so.

Mr. *Sollicitor*, in his Argument, was pleased to cite many antient Rolls out of H. 3. and E. 1. and about those Times, concerning those Princes handling the Jews.

In Mr. *Pryn's* Book that he calls *The second Part of a short Demurrer to the Jews long discontinued Remitter into England*: Printed in 1656.

In which Book, I believe, an hundred Records and Histories are cited to shew how they were about those Times handled.

The Time that they did exact, and much enrich themselves by Usury, to the great Impoverishment of the People: And that the Princes of those Times polled them, taxed them, and took it from them again at Pleasure.

But besides Mr. *Pryn*,

² Inst. 89. *Stat. of Merton, C. 5. made 20 H. 7.* was, my Lord *Coke* saith, principally intended against the usurious Jews.

Stat. de Judaismo, 18 E. 1. Recites, that the King's People were disinherited by the usurious Jews:

Jews: And enacts, That no Jew, for the future, shall take Ufury.

My Lord *Coke* saith, that 15060 2 Inst. 507.
Jews thereupon departed the Kingdom.

But for the Use that in arguing is made of this Matter of the Jews, and of the King's seizing their Estates, and pardoning for dealing with them.

1. As for those antient Records in general.

Time hath hidden the Knowledge of the Laws, and Transactions of those Times: It is impossible to know what the Laws of those Times were, or rightly to distinguish betwixt legal and violent Acts: And to bring Inferences from thence, to conclude in Judgment now, is *Notum per Ignotius*: Or like Dependencies, which unless latter Times have concurred or agreed with, are only fit to make Disorder and Confusion.

2. But that which is deducible from thence is not, as I conceive, what hath been endeavoured.

That is, that they had no Property, because the Princes of those Times took from them their Estates when they pleased, or taxed them how, and in what Manner they pleased.

But perhaps the Reason was because those People lying under the Curse, and being a vagrant People, without Head, Prince or Governour, or Country; it was no Difficulty to tax, or take from them at Pleasure, being hated of the People where they lived.

For it could not be as they would have it, that they should be amongst us as alien Enemies; for an alien Enemy can make neither Bargain nor Contract, nor be capable of Property.

But

But the Subject may, at his Will and Pleasure, fall upon and take all that he hath to his own Use, as upon the King's Enemies; and what he can take from him is his own Acquisition, as the Prize of his Adventure, and Conquest over his Enemy: And to prove this, two Books are cited, 17 E. 4. and 2 H. 7.

But by what is admitted by them, that they were great Usurers, and had great Estates,

It is evident that they were treated as alien Amies: How could they else, in such Multitudes, live amongst us? How could they be Usurers or get Estates if they could not make Contracts? How is it possible they could preserve their Bodies or Estates against the King's Subjects, unless they had the King's Protection, and treated as alien Amies.

And of latter Times, how many of them have lived amongst us, driven great Trades, have had, and have, at this present, considerable Estates?

Let it be now adjudged, that any Man that will, may take away their Estates, that they can have no Remedy or Action for any Debt owing to them, but instead thereof, may be beaten and imprisoned as Enemies to the King: And we shall probably see what the Success of such a Judgment will be.

The Act of Navigation, made the
 12 Car. 2. 12 Year of the King, concerning Trade,
 cap. 18. shews, that Infidels have the same Liberty of Trade as others.

That Act being made for Encrease of Shipping and Navigation, and prohibiting Goods to be imported by any foreign Ships, except the Ships of the same Country where the Goods do grow or arise, distinguisheth not betwixt Infidel and Christian Countries: But expressly saith, " That
 " Cur-

“ Currants, nor Commodities of the Growth of
 “ the *Turkish* or *Ottoman* Empire, shall be im-
 “ ported but by *English* Ships, except Ships of
 “ the Built of that Country or Place where the
 “ Growth is, and whereof the Master of the
 “ Mariners is of that Country or Place.

This Clause shews plainly, that the Infidels of the *Turkish* and *Ottoman* Empire have Liberty of Trade here.

And the Acts of Tunnage and Poundage tax all their Merchandizes, without saying, brought in.

In *Southern* and *How's* Case, 2 Cr. 469. where a Man imployed another to sell Jewels for him in *Barbary*, as true Jewels, and he sold them to the King of *Barbary* for 800*l.* as true Jewels, when they where counterfeit, and thereupon the King of *Barbary* finding himself cheated, imprisoned the Plaintiff that sold them to him, till he repaid his Money :

In that Case 'twas of all Sides admitted, and not as much as objected, that this Contract was void, because the King of *Barbary* was an Infidel.

So that this Opinion, that Infidels are perpetual Enemies, and in perpetual Hostility, can maintain no Action, nor have any Thing amongst us, hath no Authority for its Foundation, but only some extrajudicial Sayings, without Debate or Consideration : And is against all the continual Practices of Princes and People at all Times.

Perhaps 'tis no small Part of Religion, that Men should speak and deal plainly and uprightly one with another. We do know that Religion hath been too often made a Cloak and Veil for other Ends and Purposes. It should not be so : And I hope, will not be so used in this Case.

The

The Statutes that I have cited of *Magna Charta*, c. 9. E. 3. 25 E. 3. 2 and 11 R. 2. All declare and enact the Freedom of Trade in general Words, except only such as are in War with the King. In none of them is there any Exception of Trade with Infidels.

Can it be imagined, that in those Days we had no Trade with *Turkey* or *Barbary*? Our Kings went with Armies to the Holy Land. King _____ had made War and Peace with the *Turks*. Had we no Trade there but with our Swords?

But to look nearer home, *Spain* and *Portugal* were Infidels, and in the Hands of the *Moors*, until *Anno* 1474. which was 14 E. 4. Can it be thought that in all those Times betwixt *Magna Charta*, H. 3. and E. 4. we had no Trade with *Spain* or *Portugal*?

Stat. 12 H. 7. c. 6. was made in the Year 1497. which is but twenty three Years after the *Moors* were driven out, and in that Statute it is Recited,

“ That the Merchants Adventurers, dwelling
“ in divers Parts of *England*, out of *London*, did
“ shew,

“ That whereas they have had free Passage,
“ Course and Recourse with their Goods, Wares,
“ and Merchandizes in divers Coasts and Parts
“ beyond the Seas, as well into *Spain*, *Portugal*,
“ *Venice*, *Dantzick*, *East-Land*; *Frize-Land*, and
“ divers and many other Regions and Coun-
“ tries in League and Amity with the King;

“ That they were imposed upon by the Com-
“ pany of Merchants in *London*, and forced to
“ pay Duties.

I only make use of this Recital, to prove the free Passage there mentioned, to *Spain* and *Portugal*, and to other Countries and Regions. There

is no Distinction of Infidel from Christian Country, though *Spain* and *Portugal* had been so lately Infidel ; and though, most probably, the Trade they had then was with *Turkey* and *Barbary*, as well as with *Venice* : The Words [*other Regions and Countries*] seem to imply as much, and the Freedom equal.

So that I think, as to this Objection, that Infidels are perpetual Enemies, that we have no Peace with them, nor can they maintain any Action, or have any Property by our Law ; I think the Authority to maintain it is none at all ; the constant Practice, as well by Princes as People, has been always against it.

But be that Point, of Trading with or without Licence, how it will.

That Point can't be sufficient to found a Monopoly upon ; that can't warrant a Grant of a sole Trade, sole buying, and sole selling, to be granted to you and your Successors, your Sons, your Servants, your Apprentices and Factors, and such as you shall license for ever.

Here is a License in Perpetuity, not only to those that then were, but to their Sons and Successors, and those whom they should license for ever : And this into a very great Part of the World : And by the same Reason all *Turkey* and *Barbary*, a great Part of the *West-Indies*, and other Parts of the World may be monopolized, and perhaps all Christian Countries.

The Statute of Monopolies hath no Allowance or Exception for monopolizing to Infidel Countries.

That Statute is against all sole buying, sole selling, or sole using any Thing.

And the *Turkey* Trade was used long before that Time, as by the Charter granted 23 *Eliz.*

So was the *Barbary*, as by the Charter thereof; and I believe to the *Indies* also.

And the Statute of Monopolies being so general (the Proviso not reasonably construable, to except this Company out of the Extent of that Statute, unless all Patents that may be granted to Companies of Monopolies are, by that Exception or Proviso, out of the Statute) for the suppressing so great Evils as Monopolies are, and always have been accounted;

I hope it will not be avoided upon an imaginary Difference in Law betwixt Infidel and Christian Countries, to monopolize thereby the Trade, perhaps, of the greater Half of the World; as *Turkey*, *Persia*, *Barbary*, *East* and *West-Indies*; for those of the *West-Indies*, a great Part, I think, are Pagans.

Exch. 4. C. 1. Lane
24. 2 Infl. 63.

In the great Debates that were about 3 and 4 *Car.* 1. about the King's Power of imposing Rates, Subsidies, or Impositions upon Merchandize, in *Bates* his Case, are many Things said concerning the King's Power of prohibiting Trade.

Restraining by a *Ne exeat Regno*. And from these Arguments they reason the Lawfulness of Imposition upon Merchandize.

The Arguments and Reasons in those Debates did not distinguish betwixt Infidel and Christian Countries. But betwixt Native and Foreign Commodities or Merchandize: And did endeavour to have a Prerogative to tax foreign Commodities.

And their Reasons run thus,

The King can prohibit or restrain any Merchant to go out of the Kingdom: He can restrain any sort of foreign Commodities to be imported:

If

If he can restrain, then none can go or import contrary to such Restriction or Prohibition without Licence. Then the Licence is grantable upon Payment of such or such Duty or Imposition, or as it can be agreed for and had; and consequently such Imposition, Farm or Rent lawful.

And in the Argument of those Matters, it appears that a Restraint in its Consequence may import a Tax, or an Imposition, or Rent, or Farm.

If Licences be requisite, whether that will introduce Rates to be imposed otherwise than by Act of Parliament, may be considered.

Suppose it true, that there have been Licences granted, to go into Infidel Countries: So there have been to go beyond Seas.

But it is no Consequence, that because such have been granted, that therefore it is unlawful to go or trade without Licences.

Much less doth it follow from thence, that such a Patent as this to any one or few Subjects, to have the whole and sole Trade into any one Place, can be warranted.

I do not question but the King may restrain the Passage of Merchants and Merchandize in some Cases, and embargo Ships in some Cases. But these are upon several Reasons.

1. In Cases of War.
2. In Cases of such Merchandizes as are necessary for the Safety or Defence of the Kingdom, to restrain their Exportation.
3. In Cases of Plague from particular Place to import.

But then these Prohibitions are general, and their particular Reasons and Grounds are apparent.

But if under any Pretence, any sole Trade to some one Person, Body Politick or Natural, be granted,

granted, excluding all others ; that Grant is, I conceive, in Deceit of the King, and to the Prejudice of his Subjects, and void.

Never any such Grant hath hitherto had any judicial Allowance ; but so far from that, that as far as I could observe, no Opinion hath been, till within 4 or 5 Years, that such Grants were good to exclude others : Nor any Action or Suit ever adventured before now to be brought upon any such Ground.

But if the Law should be so, and that the Defendant ought not to have traded there without Licence,

Then he may be punishable at the King's Suit, by Fine and Imprisonment.

But that you should maintain an Action against him ! what Cause of Action, or what Damage or Loss to you have you laid in your Declaration ?

You say in your Declaration, “ That the Defendant *Sands*, not being a Member of the “ Company, nor Son, Servant, Factor, Apprentice, or Assignee of the Company, traded and “ merchandized in the *East-Indies*, within the “ Places granted to you by your Charter, and “ hath there bargained and sold Wares and “ Merchandizes, and there bought others, and “ imported and sold them in *England*, against “ the Will of the Company, to their Prejudice “ and Impoverishment, against the Form of the “ Letters Patent, to the Damage of the Company, 1000*l*.

1. You have not alledged that he had no Licence from the King.

2. You have not shewn any Loss or Damage that you have.

Did he buy so much Merchandize in the *Indies*, as that he left not there sufficient for you to furnish your Ships withal, so that they came home empty ?

No

No fuch Thing is alledged.

Or did he here export, to fell fo much Merchandize, as not fufficient left for you to buy here?

No fuch Thing alledged in your Declaration.

Or did he bring home here fo much as that there were not Buyers fufficient for his Goods and yours alfo?

No fuch Thing is alledged.

Or is the Truth fo, as that hereby your impofing your Prizes upon your own Commodities, felling at your own Rates, and exacting what you thought fit, was hindred; and for this you would maintain an Action?

It will be the firft Time, I think, that a Man did ever recover Damages for being hindred of impofing and exacting his own Prizes, or having the Advantage of his Monopoly.

A Commoner may bring an Action of the Cafe againft a Stranger, who puts in his Cattle into the Common; provided that thereby the Common be impaired, and the Commoner have not fufficient Common, as before, but have a Damage; otherwife he can maintain no Action.

Refolved, that for every Feeding of the Beasts of a Stranger in a Common, the Commoner fhall not have an Affize or Action upon the Cafe; but the Feeding ought to be fuch, that thereby the Commoner cannot have Common of Pasture for his own Beasts.

Co. 9. Rep. 113.

'Tis the Confequence, the Lofs of his Common, that gives him Cause of Action.

'Tis not alledged in the Declaration, that your Trade was any Thing the worfe: No Damage to you appears by it.

What

What Reason is there that you should recover Damages, where you have not sustained any Loss? And if you have alledged none in your Declaration, how can your Declaration be good? It then contains no Cause of Action.

The last Point in that Case is there resolved, that admitting the Patent good, yet no Action would lye.

In that Case the Queen, by her Letters Patent, had granted to Mr. *Darcey*, that he, his Servants, Factors, and Deputies, the whole Trade, Traffick and Merchandize of Cards for 12 Years should have and use: That none else should use the Trade, nor buy or sell Cards: That the Defendant did, contrary to this Patent, sell Cards.

1. Adjudged that this was a Monopoly, and the Patent void.

2. That if the Patent had been good, yet no Action would have lain against the Defendant upon it.

II. But for another Reason you can't maintain this Action.

It is grounded upon the Restraint and Prohibition of others to trade, contained in the Letters Patent.

That Restraint or Prohibition is not an absolute Restraint or Prohibition, but *sub modo*, under a Pain of Forfeiture of Ship and Goods; one Half to the King, another Half to you that are the Company.

Now supposing all that you can desire; That this Patent should have the Force and Vertue of an Act of Parliament, yet such an Action as this could not be maintained upon it; but you must sue for the Forfeiture.

For whensoever a new Law is made, you must take that new Law as it is, and it can't be extended.

Co,

Co. 7 Rep. 37. 11 Rep. 59. and Pl. Com. 206.
All prove it.

Stat. E. 6. gives treble Damages for not setting out of Tithes :

Can the Party wave this Way, and bring an Action of the Case ? Yet here, the Damages are given to the Party.

The like of all other penal Statutes ; a Man must forfeit only the Penalty the Statute inflicts.

So that this Action cannot, as I conceive, be maintained.

So that to conclude :

1. That which this Company claims in this Case, by this Patent, to have the sole Trade to the *East-Indies* in their Politick Capacity, excluding all others, is a Monopoly and Ingrossing against the Common Law ; the antient Statutes ; the Statute of Monopolies, 21 *Jac.*

And therefore they have no Right to have what they claim.

2. That what the Defendant hath in this Case done, he hath lawfully done, and therefore not to be punished.

3. That though the Company had a lawful Claim to the Trade in such manner as in their Declaration set forth, and the Defendant have done what he ought not, yet they can't maintain this Action.

And upon the whole Matter, Whether best for the Company to have Judgment for them or against them, may deserve their Thoughts.

And this being so great in the Consequence, as the whole Trade of the Kingdom depending upon it, I have laboured the more.

The antient Laws, the antient Ways, is what I endeavour, and against new Ways upon any Pretence whatsoever.



Extraet from a Discourse on Trade, written in 1696, by Mr. John Pollexfen, one of the Lords of Trade, at the first Constitution of that Board.



THOSE Countries and Kingdoms which we usually comprehend under the Name of the *East-Indies*, being naturally stored with Rich Commodities ; Materials good and cheap for Manufacturies ; People ingenious in fabricking of them, and skilful at many Handicraft *Trades*, working in some Places for a Penny per Day Wages ; *Spices* very plenty, because many Sorts afford two, others four Crops or Harvests in a Year ; *Diamonds* in Abundance, and other precious Stones, as well as several Sorts of *Drugs*, and other useful and valuable Commodities, hath fixed the Eyes and Hearts of all the Trading Nations of *Europe* upon them, and occasioned great Contests, who shall enjoy the greatest Part of that *Trade*; though, if it should increase, the Vaults of the *Great Mogul*, and his *Nabobs*, may in Time prove to *Europe*, as the Gamesters Box to Gamesters, they get the *Gold* and *Silver* near as fast as it may come in from *Africa*, *West-India*, or other Places, and by the Manufactured Goods from thence, endanger the making of their own *Trades*, in a great Measure, uselefs.

This

This *Trade* hath been for many Years managed by a Company, with a joint Stock, exclusive to others; which hath occasioned great Contests and Differences amongst the People, amounting to a kind of Civil War. The Exports for this *Trade* are most in *Bullion*, and whatever may be objected, not less than 600,000 *l. per Annum*; taking any Number of Years when the Trade was carried on without any great Obstruction.

Being the giving a full Account of the Original, Progress, Management, Causes of the Increase of this Trade, and Complaints about it, may conduce to the making a good and speedy Settlement of it, the following Particulars, though they may appear tedious, will not be unnecessary.

Several Charters have been formerly granted for the Management of this Trade by a Corporation, and Joint-Stock, which, upon an Examination will be found, were always attended with great Complaints, and no good Success. The last Stock was underwrit by Vertue of a Charter, granted *Anno* 1657, since often confirmed, and augmented, with extraordinary Powers, the Stock then underwrit about 744,000 *l.* of which only 372,000 *l.* was taken in. The Trade carried on for some Years by the Exportation of Goods and about 40000 *l.* in *Bullion*, Shipt off by a Privy Seal, or License from the Court, for that Purpose, till *Anno* 1663, when an Act of Parliament came in Force for the free Exportation of *Bullion*, then it begun to be carried out in much greater Quantities; but the Importations were chiefly *Druggs*, *Saltpetre*, *Spices*, *Course Callicoës*, and *Diamonds*, until after *Anno* 1670; then *Throwsters*, *Weavers*, *Dyers*, and such like Tradesmen, were sent out by the Company to teach the *Indians* to make all Sorts of Manufactured Goods,

in such Manner as might best please the *Europeans*, and be most profitable for the Company. Till then the Trade in Manufactured Goods, or *Raw Silk*, was inconsiderable in value, and not much *Bullion* exported; those Gentlemen, that had the Management of the Affairs of that Company before, often declaring, *That they would not adventure on those Commodities, lest they should endanger the Ruin of our own Manufacturies, and of the Turkey Trade, and raise a Storm against the Company.*

As ill Weeds grow apace, so these manufactured Goods from *India* met with such a kind Reception, that from the greatest Gallants to the meanest Cook-Maids, nothing was thought so fit to adorn their Persons, as the Fabricks of *India*; nor for the Ornament of Chambers like *India-Screens, Cabinets, Beds and Hangings*; nor for Closets like *China and Lacquered Ware*; and the melting down of our milled Money, that might, by the Name of *Bullion*, be exported to purchase them, not at all considered.

The Humours and Fancies of the People thus combining with the Design of those that had the Management of the Affairs of that Company, to make a beneficial Trade to such as had ingrossed the Stock, no Endeavours were omitted, no Addresses to the *Court* neglected, nor Expences valued, that might tend to improve this good Opportunity; which soon occasioned a very great Increase for the Supply of all those that were fond of those Commodities, and large and plentiful Dividends out of the Stock, for those that had ingrossed this Trade.

But this great Increase of Trade in such Goods could not be made without some Hindrance to the Profit of others, by the Diminution of their Trades, which were in a Manner swallowed up
by

by this from the *East-Indies* ; that they might help themselves by proper Methods, *Anno* 1681, presented a Petition to King *Charles* the Second, for the enlarging the Stock and Adventurers in this Trade, Signed by the ablest Merchants on the *Exchange* of *London*, and great Numbers; and the Matter was referred to the Consideration of several Lords of his Majesty's Privy-Council; where it was argued in the Behalf of the Petitioners :

That though this Trade be now increased to be above one quarter Part of the Trade of this Nation, yet it doth not now support or entertain, as Adventurers or Proprietors, more Persons than it did when the Company was first settled, tho' the Trade was not then one tenth Part so much; for the Stock not being increased by new Subscriptions proportionable to the Trade, but continuing the same 372,000 *l.* as at first, upon which all Sales and Dividends are made, the Adventurers instead of being increased from 900 they were at first, to 9000, as the Increase of the Trade required, are reduced to 550 Persons.

Such are the Corruptions that have grown up with Time in the Management of this Trade, that the major Part of the Gains therefore is divided amongst forty Persons, and *the whole Administration and Command of it in the Hands of ten or twelve Men*, who, under the Name of a publick, carry on a particular Interest by Private Trade, owning the Ships they employ, and other By-Ways.

Because the Method which this Company practised, of carrying on the Trade by taking up one Million of Money on a Common Seal at Interest, is not only indirect and dangerous (because oftentimes they have not in *England* to pay one

fifth of what they owe, and there is a Possibility their Ships may miscarry) but also very unequal to the Subject, the Members of the Company reaping near 100 *per Cent.* Gains *per Annum* thereby, but the Lenders only 4 or 5 *per Cent.*

Because the major Part of the People of this Nation now living, were either Minors or unborn when this Trade was first settled, and many that traded in *Linnens* from *Hamburg*, *Flanders*, *Holland* and *France*, and in *Silks* from *Italy*, *France*, and in our own Manufacturies, have their Trades swallowed up by this from the *East-Indies*, and are thereby deprived of their Livelihoods, and can have no Reparation but by an Admission into this Trade.

Because the enlarging of the Stock would occasion the enlarging of the Trade to *Moca*, *Arracon*, *Achein*, *Sumatra*, *St. Lawrence*, *Pegu*, *Mozambig*, *Sofola*, *Melinda*, *Borneo*, *Persia*, and *Japan*, all Places capable of a great Trade, which would be of great Advantage to the Navigation, his Majesty's Customs, and his Subjects in general.

Though this Company had been the first Discoverers of this Trade, yet it is not usual to permit that those who invent or discover any Thing improveable for common Good, should keep such Discoveries to themselves and Successors to Perpetuity; only a certain Term of Years for Encouragement: But this Company being not the Discoverers, and having enjoyed the Trade 24 Years, and made *ten* for one of their Money, have been sufficiently rewarded; others without reaping what they sowed have expired for publick Good.

If this *East-India* Trade should go on increasing, as of late, and come to be double or treble what it now is, yet without a new Settlement and larger Stock, the Advantages will be contracted

tracted to as few Persons as now ; it being probable, that as it hath been more and more ingrossed ever since the Year 1666, when first it begun to get Repute, no one Man having then to the Value of 4000 *l.* Stock, now several 50000 *l.* a-piece, and one above 100000 *l.* So the same Temptations will occasion the further Ingrossing of it, thereby to keep the Management in their own Hands, by which they will continue reaping the Advantages of the said Trade, though it should grow never so great, and have as much Security for their Money as the Treasure of the *Nation* taken up on a common Seal can afford.

Because it is apparent the *Turkey Trade* is of great Advantage to this *Nation*, exporting Yearly above 400,000 *l.* in our Manufacturies, and bringing home profitable and necessary Goods in return thereof, and in Danger to be destroyed by this from *India*, by their Importation of such an Abundance of wrought and raw *Silks*. It would be severe, if they who have deserved so well of the *Nation*, by carrying on that Trade, should have no Way to come into this, which is like to destroy theirs.

Without new Subscriptions there can be no Way of coming into this Trade under this *Charter*, but by buying Shares in the Stock of the present Adventurers, which is to reduce the Liberty and Freedom which hath always been approved for Admission into Trade, to the same Difficulty as to attain the Possession of *Lands* ; for one Man cannot buy any Stock, unless another will sell, nor unless the Buyers will give the Price demanded ; and Experience hath discovered, that it's so seldom any Stock offers to be sold, that it can no Way answer the Objections made against the present Company : For those who have the greatest Stocks, instead of selling, accumulate
more ;

more ; and it is only some small Sums by Chance escape their Hands ; but if there were more to be sold, it would but exchange the Interest of *A. B.* for *C. D.* and no Way be subservient to the bringing in of more People or Stock into the Trade ; and it will be more agreeable to his Majesty's Bounty and Goodness, that his Subjects should enter into this Trade by a Door of his opening, than by the Courtesy of the present Adventurers, and such a narrow disadvantageous Way as they allow of, which cannot extend to any considerable Number of People, nor to those who most want his Majesty's Help, [the meanest] because they have not Money to buy 100*l.* Stock, at the Rate it now goeth of 500*l.* and less Sums are seldom or never sold ; by which Means, if there were no other, the major Part of the People are prevented from coming into this Trade.

Because this Company, by sending over to the *East-Indies*, *Dyers*, *Throwsters*, *Weavers*, and Instruments for the setting up of Manufacturies there, and by the Contraction which they have made of the Advantages of this Trade to so few Persons, and the Inequality and Danger which ariseth by carrying on this Trade by Money taken up on a Common Seal at Interest, and by the particular Interest which they carry on in their Private Trade, owning of Ships they employ, and other sinister Ways, have degenerated from their primitive Nature, and directed and managed his Majesty's *Charter* to Purposes different to his Gracious Intendment, and Royal Grant, *which was the Good of his People in general*, by converting and wresting the said *Charter* to be only subservient to their particular Advantage ; and therefore ill deserve to be continued in the Enjoyment of such extraordinary Gains, so contrary to the Interest of the *Nation* in general.

Because

Because the Members of this Company have enjoyed it so long, as they have almost forgot the Donor's Right, and the Nature of their Tenure; pleading their Charter, Prescriptions and Possession (which cannot give them any Right but during his Majesty's Pleasure) in Opposition to his Majesty's Royal Bounty and Goodness, intended to be equally distributed amongst all his loyal Subjects, as he is a common Father to them all.

Though his Majesty, and former Kings his Royal Predecessors, have granted Charters for Incorporating of Trades, to a set Number of their Subjects named in them; yet it was never intended to their private Use, nor as an Inheritance to them; but such Persons Names were only used as in Trust for the publick Good, that being the Royal End which his Majesty, and the King's Predecessors, always designed. And this is manifest by the Proviso his Majesty was pleased to make in this Charter, " That when this Charter, " either in Whole or in Part, was not profitable to his Majesty or his Realm, that then " and from thenceforth, after Three Years " Warning, it should expire to all Intents and " Purposes.

By the Example of former Ages, it is apparent, that other Companies have had their Determination for publick Good; as may be instanced in many Companies that have managed the *East India* and *Guiney* Trade, and most of them after they had lost great Estates in the carrying on of the said Trade; which, if particular Interest must be considered, will be found much severer, than to have this *East-India* Company expire after 24 Years Enjoyment, and the reaping of so great Advantages thereby.

Trade is to the Body Politick as Blood to the Body Natural, if it have its Circulation, 'tis apt to
re-

relieve the Wounded, or most needy Part, (the meanest) but if obstructed, or otherways disordered in Motion, may probably weaken one Part, and over nourish others: If all the other Trades of this *Nation* should be incorporated, and thus contracted, it is obvious that it would enrich only 160 Persons, and not maintain as Adventurers above 2000 Persons in all: And if such a Contraction would have a bad Effect, if all Trades were so managed, so it must have some Proportion in the Contraction; which is apparent in this great Trade to the *East-Indies*; especially if it be considered what a numberless Quantity of People there are in this Nation, which have their Dependance on Trade for their Liveliboods.

If this Trade be not intended for an *Inheritance* to these few Persons who are now in the Possession of all the Advantages and Profits of it, the present Conjunction is opportune for the *Determination* of this Company, as well in Reference to Affairs abroad, as at home: Our neighbouring Nations not being in a Condition to take Advantage of the Transition, and at home it will answer the Complaints which are made of the Badness of other Trades, and Want of Employment for Ships, and People designed for Trade.

Because there can be no Danger of any Inconvenience to the Trade by this Inlargement; for if Time be given to this Company for the drawing in of their Effects, in that Time the Pulse of the *Nation* will appear by the new Subscriptions, if Books be opened for that Purpose; and if there do not offer sufficient Subscribers for such a New Stock as is proposed, then this Company may be prolonged, notwithstanding any Intimation that may be given for their Determination; but if two Millions, or what else may be thought a convenient

nient Stock should be underwrit, then there will be no Difficulty in carrying on the Trade without any Intermission, with no more Danger than the Exchange of Committees now *Annually* made doth occasion; and the Increase of the Stock, as it will prove several Ways advantageous to the *Nation*, and satisfy the Complaints that arise from the Contraction of the said Trade, and Difficulties of Admission into it, so it will occasion the enlarging thereof; and if the present Company have Time to draw off their Effects, and have Satisfaction for their dead Stock, there can be no Injury done them; they will be only reduced to an Equality of Trade with the rest of the trading People; in doing of which there can be no more Danger than in lopping off the exuberant Branches of a Tree, opening the Root, and giving it fresh Supplies of Water.

That if it should appear that any manufactured Goods were brought from the *Indies*, that were a Detriment to the *Nation*, by hindring the Expence of such as were made here; or that Raw *Silk* could not be brought from thence upon as good Terms as from *Turkey*; that Provision might be made in the New *Charter* to prevent all Inconveniencies from such Commodities.

Upon this Petition, these Arguments, and others that were offered upon that occasion, the King was pleased to direct that the Petitioners should propose some Methods how the said Stock and Adventurers should be enlarged, without Prejudice to his Customs, and the Trade; which were accordingly made: but after some Time, all Endeavours of that kind were rejected. Upon which many Merchants and others, having the Opinion of Council Learned in the Law, that the Clauses in the *Charter*, empowering the Company to seize

the Ships or Goods of their Fellow-Subjects, *were* illegal, did equip several Ships, with rich *Cargoes*, to send to the *Indies*; amongst the rest, the Ship *Commerce*, Capt. *Sands*, with 50000 *l. Cargo*, and although he did not enter his Ship or Goods in the Custom-House for the *Indies*, yet upon a Petition from the Company to the King, suggesting they were informed that the said Ship was designed for the *East-Indies*, after several Stops to his Dispatch at the *Custom-House*, an Order was sent to the Court of *Admiralty*, that they should cause the said Ship to be arrested until sufficient Security were given that the said Captain should not sail within the Limits of the *East-India* Company's Charter. The said Ship being stopt, and Men put aboard to keep Possession, that she might not stir, *Sands*, by Writ, brought the Case to the *King's-Bench* at *Westminster*, in order to get a Prohibition, but after much Cost, Charge and Delays, a Prohibition was denied him; then the Company to ease themselves of the Charge of keeping their Men aboard, obtained the following Letter.

HIS Majesty having Information that the Court of King's-Bench hath this Day resolved not to grant a Prohibition to *Sands* the Interloper, hath commanded me to signify to you, that it is his Desire and Pleasure, that all Care imaginable be used to continue the Ship in question under the Arrest of the *Admiralty*, as now she is, 'till it be otherwise ordered by due Course of Law: And to the End there may be no Possibility to break that Arrest, and to sail away the Ship, his Majesty would have all the Sails, and the Rudder itself taken away by the proper Officer, and secured, so as no use may be made of them. His Majesty is pleased to give this Order thus soon, because it is told him, that as soon as this News reacheth the Interlopers, they may very probably direct and attempt

to have the Ship sail away, and consequently render the Judicial Resolutions of this Day of no Effect or Avail to his Majesty's Rights and just Prerogative.

February 10. 1682-3.

The Contents of which Letter was exactly executed by the Admiralty, and the Ship lay under the said Arrest Twelve Months, notwithstanding all Endeavours in Courts of Justice, or elsewhere. Then the concerned sold their Ship and Cargoe, with great Loss, and so ended their Voyage.

Notwithstanding this Discouragement, other Merchants did equip other Ships, and got them clear out; of which the Company being informed, they obtained an Order under the King's Sign Manual, to the Commander of the *Phenix*, a Fourth Rate Frigate, that he should sail to the *East-Indies*, to secure the Trade granted by Charter to the *East-India* Company, against Pyrates and Interlopers, as might from time to time receive Directions from the General or Presidency at *Surrat*; and accordingly the said Ship proceeded for the *Indies*, and the said General and Company's Factors at *Surrat* did frequently by Letters advise the said Captain, *where* *sat* *Interlopers* (as they call them) *might be met with*.

And for the further Security of the said Trade against Pyrates and Interlopers, the Company gave Commissions to the Commanders of their own Ships under their Common Seal in these Words:

*The Governor and Company of Merchants
Trading into the East-Indies, to Cap-
tain N. T.*

THE King's Most Excellent Majesty, having, by his Royal Charter, bearing Date the third Day of April, 1661, in the 13th Year of his Majesty's Reign, granted unto us the Trade of the East-Indies, and declared that the Ports, Cities, Towns, and Places thereof, shall not be traded unto, visited, frequented or haunted by any others of his Majesty's Subjects without our License, upon Pain of Forfeiture of Ship and Goods, and Imprisonment during his Majesty's Pleasure; and that if we conceive it necessary, we may send either Ships of War, Men or Ammunition, into any of our Factories or other Places of Trade for the Security and Defence of the same, and to chuse Commanders and Officers over them, and to give them Power and Authority, by Commission under our Common Seal or other ways, to continue and make Peace or War with any Prince or People that are not Christians, in any Places of our Trade, as shall be most for our Advantage and Benefit; and also to right and recompence our selves upon the Goods, Estates or People of those Parts, by whom we shall sustain any Injury, Loss or Damage, or upon any other People whatsoever, that shall any way interrupt, wrong or injure us in our said Trade: And that we may seize the Persons of such English, or other of his Majesty's Subjects, in the said East-Indies, which shall sail in any English or Indian Vessel, or inhabit in those Parts, without our License, and send them for England. And whereas His Majesty by his further Royal Charter, dated the 9th Day of August, 1683, hath been pleased to grant unto the said Company full Power to enter into any Ship, Vessel, House, Shop, Cellar or Warehouse, and to seize all Ships and Goods

Goods which shall be brought from; or carried to the Places above-mentioned; the one Moiety of all Forfeitures to be to the Use of his Majesty, and the other Moiety to the Company; and to nominate and appoint Governors and Officers in their Forts, Factories and Plantations, who are to raise Arms, train and muster such Military Forces as shall be necessary to execute Martial Law, for the Defence of the same; and likewise to erect a Court of Judicature in such Places in India as the Company shall think fit, to hear and determine all Cases of Forfeiture and Seizures of any Ship or Ships, Goods or Merchandizes trading and coming within the Limits aforesaid, contrary to the said Charters; and all other Maritime Causes.

These are therefore to authorize and require you to put in Execution, or cause to be put in Execution, all the Powers and Authorities granted unto us by his Majesty's said Royal Charters, as above recited, against all Interlopers in India, Madagascar, and all other Places within the Limits of his Majesty's said Charters, which extend to all Ports and Places between the Cape of Good Hope and the Streights of Magellan; and whatsoever you shall do or cause to be done, in the Premises, conformable to the several Clauses of his Majesty's said Royal Charters before recited, in this our Commission, or according to any further Instruction you shall receive from us, or any thirteen or more of the Committees of the said East-India Company (whereof the Governor or Deputy for the Time being to be one) we shall always indemnify, and save harmless, you, and all employ'd by or under you, therein. In Witness whereof we have hereunto caused our Common Seal to be put, this 25th Day of February, 1684-5.

The *East-India Company* in *Holland* are said to be a little Monarchy under a Commonwealth; ours would have Powers equal with them, as they

they then pretended, for which Reason happily these Commissions were granted, which must be agreed were a high Flight, and near Approach to Sovereign Powers ; but that the King could delegate such Powers as are mentioned in the aforesaid Commission, is not agreed.

By Vertue of these Commissions and Directions, amongst others, the Ships *Adventure* and *Bristol*, whose Cargoes, cost in *England* about 60000 *l.* were seized or destroyed.

But some others that went escaped from being seized as Pyrates in the *Indies*, and coming home in Safety, were for some Time permitted to sell their Goods, without any great Interruption ; but about the Year 1686, Resolutions were taken to make such Pyrates also. As for Instance, The Ship *Andulazia*, who arriving at *Portsmouth* from the *Indies*, with a rich Cargo, an Order was obtained and sent to the Admiralty, for apprehending the Men, and seizing the said Ship ; the Men were brought Prisoners to London, no Bail being admitted, and some Days after an Order was sent to the Admiralty in these Words.

WHereas we have received certain Information that the Master, Supra-Cargo, Purser, and several other Persons belonging to the Ship *Andulazia* (now lying under Arrest at *Portsmouth*, by Process out of our Court of Admiralty) are gone down, under Pretence of attending the Inspection and Appraisement of the Goods on board the said Ship, lately decreed by Commission out of our said Court, which Persons at this present are accused for Acts of Piracy, as well as Interloping, and are to be try'd for the Piracy. And whereas we are likewise informed that they or some of them have been actually on board the said Ship, and have begun to rummage there, pretending to remove the Goods in Order to their Inspection and Appraisement,

praisment, by means whereof we cannot but suspect their ill Intent and Design, to imbezil the Goods to our Prejudice, in case of Forfeiture. To the Intent therefore that there be no Imbezilment or Damage caused by them, or any other Person whatsoever, but that the Goods be kept entire and safe for the Benefit of Us, and our just Rights, in case of Forfeiture, or of others who may have a Right to the same, our Will and Pleasure is, that you forthwith issue out an Order to our Marshal and Deputies of our said Court, to unlade the said Goods, and put them in some secure Warehouses in our Town of Portsmouth, to the End that they may be preserved as aforesaid; and for so doing this shall be your Warrant. Given at our Court at Whitehall, the 17th Day of March, 1686-7.

The Persons that were named in the Warrants for the Execution of these Orders were most, or all, Servants to the Company. After Imprisonment, Great Losses and Charges, this Affair ended in an Agreement (as it was called) made in these Words :

WHereas the Ship *Andulazia*, Captain John Jacobs Commander, now Riding in the Harbour of Portsmouth, hath traded in India contrary to his late Majesty's Proclamation, and the East-India Company's Charters, (without Leave from the said Company) and is suspected to have committed some Acts of Hostility in India, which in strict Construction of Law might be counted Piracy, although it may be reasonably hoped that the fact committed in the Indies was only to promote that Private Trade in which they were unfortunately engaged. And whereas the said Ship, Commander, Officers, and Seamen, and also the Cargo aboard her is now under Arrest of his Majesty's Court of Admiralty, for Piracy and Interloping, and there have been some Proceedings in the Admiralty

Admiralty Court in order to an Adjudication of the said Ship and Goods, as forfeited by the East-India Company's Charters, one half to his Majesty, and the other half to the said Company: Now forasmuch as the Interested in the said Ship and Goods do apply themselves to the said Company, and entreat they will favour them with their earnest Endeavours and Petitions to his Sacred Majesty in their Behalf, that his Majesty will be graciously pleased to grant his Royal Pardon to all Persons concern'd in the said Ship, and of all Forfeitures incurred by the Facts aforesaid, the said East-India Company and Proprietors of the said Ship and Goods, do mutually agree to the Conditions following, viz.

That the said Commanders and Owners, and all Persons concerned as Defendants in the said Court of Admiralty, or otherwise, shall in the said Court (as most true it is) confess the Fact of Interloping, and submit to the Determination of that Court, without further Appeal, or moving for any Prohibition, or bringing any Actions, or Action of Trover, or causing any further Litigation or Trouble in any of the Courts of Law or Equity, concerning the Ship or Goods, or any of the Persons aforesaid.

That the said Persons, Defendants, or their Assigns, shall bring the said Ship about at their own Charge into the River of Thames, without any Imbezilments, with the King's and Company's Officers aboard, and shall at her Arrival in the River of Thames (the Danger of the Seas excepted) deliver up all the said Goods into the Company's Warehouses, the Company being to defray the Customs and incident Charges in Landing, upon the following Terms; viz. That the Goods be sold by the Company's Candle, and the said Custom, incident Charges in Landing and Housing, with Discompt, be deducted from the whole Sale of the said Goods, or Net Amount of them.

That

That 10000*l.* immediately after the Sale, out of the first Money received thereon, be paid to——— for the Ship's Freight, Damage, Commons, and other Charges for the said Commander, Owners, and others concerned.

That after the foregoing Deductions, the remaining Net Proceed of all the said Goods shall be paid, viz. The one fifth Part to the Honourable East-India Company, and the four fifths to —— for the Use of the respective Proprietors. That the Time of the Sale shall be within one Month after the Goods are landed, or as shall be thought convenient for Advance of the Cargo.

That when all is sold and paid, mutual Releases shall be given and interchanged between the Company and the concerned: For Performance of the Premises we give this under our Hands this 23^d Day of March, 168⁶.

On the Behalf of the *East-India* Company, if his most Excellent Majesty approve thereof.

According to this Agreement 3161*l.* 00*s.* 02*d.* was paid upon a Privy Seal, and the rest to compleat one fifth to the Company; upon which general Releases were given, and the Delinquents were pardoned for their Piracy and Interloping.

The bloody Tragedy which was acted at the Island of *Sancta Helena*, Anno 1685; the Illegal Imprisonments which have been frequently made at Fort St. George, *Bombay*, and other Places Abroad; the violent Prosecutions that were about that time carried on in the Courts of *Westminster-Hall*; the vast Sums of Money that have appeared, and much greater which have not yet been made publick, that have been expended in Secret.

Services, to gain the Steps before-mentioned ; to defeat all Endeavours to obtain any Alteration in the Management of the said Trade, and to justify and defend the Execution of such Powers ; and that those which suffered could never obtain any Redress or Satisfaction ; as may hereafter be thought a Blemish on our Government, so doth deserve to be entered as a Caveat against the Incorporating of Trades with Joint Stocks, or at least for the taking of great Care that the like Oppressions and Violations may not happen again by such Settlements ; for there will always be a great Temptation from particular Interest to extend their Powers beyond their due Limits ; the Persons that have the Management being too apt to conclude, there cannot be any great Danger of making Compensations, or being called to an Account ; for if they have a good Stock, and profitable Trade, they will suppose that in Cases of Difficulty they shall always be able to charm the Great, and over-power their Equals ; and that the Common Seal only must bear the Reproach and Blame of all. The Integrity and Ability of the Members concerned in such Stocks having been found by Experience to be no Security against the abusing of Powers granted to Corporations.

The Advocates for Settling this Trade in a Joint Stock usually alledge, That the Trade to the *East-Indies* is remote, and cannot possibly be carried on without it : That there are and must be several Forts and Castles, and Factories, in several Princes Countries, with which Princes Differences do arise, and oftentimes with the *Dutch* : That there is a Necessity of Soldiers and Garrisons at the Isle of *St. Helena*, Fort *St. George*, *Bombay*, &c. none of which can be maintained without a great Charge : That there is occasion

to make Treaties and Agreements with the *Great Mogul*, and other Princes, which cannot well be managed by particular Persons: That they employ great Ships, and breed up a great Number of Seamen: That they bring a great Deal of Treasure to the Nation, by what Goods they bring, and transport into foreign Parts; and that others spent here at home are very useful, and come cheaper to us than we should otherways have them: That they have been long in the Possession of this Trade, and have a Right to their Forts and Castles, which they bought and paid for: That their Adventurers are numerous, and therefore the Trade as diffusive under the Company as can be made otherways, and that all Persons may come in at any Time by buying Stock: And that it being laid open before the Year 1657, when this *Charter* was first obtained, it was reduced to such a languishing Condition in a few Years, that the Traders that pursued it soon lost much by it, and all joined in an Application for getting it settled by a Charter in a Joint-Stock; and that the like will happen again if it should be laid open, if not lost to the *Dutch* or *French*, or other Nations.

The Opposers have offered against these Arguments, That though the Trade be remote, yet that the *Indians* do as kindly receive all Persons that come there to Trade, and with as much Civility and Security, as any People in *Europe*; and that the Company could never get any Favour in Trade amongst the Natives above other People, unless by Force and indirect Means, as the *Interlopers* have experienced: That the Inhabitants of *St. Helena* are *English*, under the Jurisdiction of *England*, and without much Charge may be maintained, so as to serve for a watering Place for the Ships as they come home: That the

Forts of *St. George*, *Bencoolen*, and *St. David's*, were never of any Use, more than as *Warehouses*; and as such, *Fort St. George* and *Bombay* are not very serviceable, because most of the Trade is carried on at a great Distance, and none of them capable to be defended against the *Indians* by Land, or *Dutch* by Sea, if they should come with any Force to attack them: That Treaties and Agreements with Princes in the *Indies*, may be made with their Ministers by any single Person; the Governors, and others, being always ready to treat with any Merchants, and that there is no need of going to the Prince himself: That the *East-India* Trade employs many Ships, and some very good; but that it is rather a Consumption than Nursery of Seamen, carrying away generally only the choicest, and sometimes burying half of them: That the long Possession this Company have had of this Trade, for near forty Years, makes against them, *it being not reasonable any Set of Men should keep so great a Part of the Trade of the Nation in Succession to Perpetuity, exclusive to all others, who have as much Right to it as they*: That the Forts and Castles cannot properly be said to belong to them, but only in Trust for the Government; and the Trade is not so diffusive as it ought to be, because the Stock is ingrossed by a few: That the *Dutch* being in Possession of so many Ports and large Territories in the *Indies*, have such Strength at Sea, that it is impossible for the *English*, as the Case now stands, to keep them in Awe by Strength there; and that this Company never could, as appears by their having lost to them all that they ever thought worth taking, *Amboyna*, *Palleroon*, and all the *Spice Islands*, or *Factories* which we had in any such Islands, and lately *Bantam*; and what we now have, the *Dutch* would not be

be at the Charge of keeping, if they had them.

But leaving these old Complaints and Disputes. If Corporations in Trade with Joint-Stocks should appear *to be in their own Nature to all Intents and Purposes Monopolies, mischievous to Trade*, and as much an Excise upon such People that buy any Goods, imported by such Companies, and not concerned in the Stock, as if it were said in direct Words, *That all such Persons should pay, in all they buy, 20 or 50 per Cent. extraordinary towards the enriching the Proprietors of that Stock*, added to the Inconveniencies before-mentioned, that attend the contracting or incorporating of Trades; whether then it be not worth an Inquiry if some Method for regulated Companies may not be contrived, to answer all Arguments offer'd for Joint-Stocks, and prevent the Inconveniencies, where any Trade absolutely requires Regulations? But all Attempts of this kind may meet great Opposition; it being a fair Step to Riches to have a great Trade, and happily the most beneficial, separated and confined chiefly for the *Advantage* of those few that can get the *Management* of it; therefore not strange that most of our richest and greatest Traders should now be engaged in Joint-Stocks, and endeavour to support them.

If Companies with Joint-Stocks were at first intended for the Good of Trade, they have certainly of late deviated from their Original Constitutions; *for too many have, by dividing their Stocks amongst themselves, much prejudiced the Trades they have been intrusted with*, selling Pretences and Privileges (after the Stock is divided) to such as were excluded, who must come into such Trades upon such Terms as they please to impose on them, or not at all; made Stock-Jobbing their chief

chief Trade, and ruined thereby some good Designs for the promoting of Trade.

It is true, when a Trade is first Incorporated, it is usually on condition, that all may come in, and subscribe within a Time prefixt, that will ; and such as do not subscribe within that Time, to be excluded :

But such Corporations when once settled being not easily broken, those that get into Possession usually endeavour to keep such Trades, if profitable, as if they were their Inheritance ; such Merchants, Traders, or others, that may be excluded, because at the Time of the Books being opened they were beyond Sea, or under some natural Incapacity, as Minors, or otherways, not then in a Condition to subscribe, have always and may probably ever complain, that they are deprived of their Birth-rights, and that it is hard and unequal they should be excluded from such Trades, when the Members of such Incorporations are not excluded from coming into theirs.

And as the settling of Trades in Joint-Stocks makes a great Inequality between those that are of the Company, and those that are excluded, so more amongst themselves: For when the *East-India* Trade was in its most flourishing Condition, ten Men owned one quarter Part of the said Stock, and under forty the one half ; who thereby getting the Management, made more Gains in Proportion than any of the rest of the Adventurers, getting the Ascendant and Commands by ingrossing the Stock.

As those that live in *Middlesex* and *Essex* would probably complain, if a Priviledge were granted to the County of *Surry* and *Sussex*, to have the sole selling of *Corn* and *Cattle* to the City of *London*, and the Citizens that should there-
by

by have Provisions dear ; so all incorporating of Trades will always be attended with the like Complaints, for they will have, in some Measure, the same Effect, and afford the like Grounds.

All will agree, that Trade ought not to be stinted and contracted, to the Advantage of some few, but diffusive, for the Incouragement of Industry, and free for all Persons to engage in: Joint-Stocks may be a good Way to *advance* some Trading Men, but whether they may probably *advance* the Trade of the Nation, or answer the chief Ends designed by Trade, should be considered.

Of the TRADE to AFRICA.

THE Trade to *Africa* deserves all Incouragement, being beneficial both in its Exports and Imports, carries from us great Quantities of our *Draperies* made of our coarsest *Wooll*, which would not be vendible elsewhere, and many other Commodities we can well spare ; returns chiefly *Gold*, and *Elephants Teeth* brought here, and great Quantities of *Negroes* that are carried to our Plantations ; so that it is hard to name any Trade we drive that deserves better to be enlarged, being a Country in which *Rivers*, *Bays*, and *Creeks* are very plenty. It may be a Question if we ever yet made the best of it, especially as to the Trade of *Negroes*, which the *Spaniards* are ready to take from us in Exchange of *Gold* or *Silver*. No Trade more likely to supply the Want of *Coyne* in this Nation, nor less lyable to Objections that any Prejudice can ensue by carrying it on to the largest Extent.

This Trade hath been also managed by a Company in a Joint-Stock, which was subscribed about the Year 1672, springing out of the Ruins of a former Company. A *Charter* was then granted, and the Powers afterwards enlarged and executed,
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after the Pattern of that for the *East-India Trade*, by which also many suffered to the greatest Extremity; and the Plantations, whether because they were not plentifully served with *Negroes*, or not upon good Terms, or because they were unwilling to have their all (for their being supplied with *Negroes* is so to them) subjected to the mercy of a Corporation, have made frequent Complaints against this Company, as well as those that lost their Ships, Goods, and Liberties, or were deterred from Trading thither. This *Trade* was never yet advantageous to any Company. Upon the Settling of this last, some scrupulous Persons took the Opinion of our ablest Divines, whether it were lawful or not to sell and buy Mankind, upon which this *Trade* doth much depend? Most agreed that it was practiced in the Primitive Times; for which they quoted good Authorities, but condemned their being used ill, either at the Time of their Transportation from the Country where they were bought, to any other, or afterwards; and recommended that all Christians should treat them, as having the Image of God; and use their best endeavours to instruct them in the Principles of the Christian Religion. The Covetousness of most Commanders, to carry many to advance their Freight (for they are generally paid by the Head) as it hath occasioned unanswerable Abuses, so the Death of Abundance, which should be prevented if possible, that their Condition after they are bought may be better than before; which may be the best Argument that can be given, for the buying and selling of Mankind.

All *Trades* settled in Joint-Stocks must restrain the *Trade* to *London*; from thence all Ships for the carrying on of such *Trades* must have their egress, and thither must return; which, as well

as the Grievances before-mentioned, will occasion Complaints from the rest of the trading Towns: The City of *Exon*, and *Bristol*, and others, being as well seated and accommodated for carrying on a Trade to *Africa*, as *London*.

The many Discoveries that have been made of Countries and Trades, which now consume great Quantities of our Products, were always by bold Adventurers; the incorporating of Trades in Joint-Stocks, will be a Discouragement and Hindrance to such Undertakings; for as the Original of such Incorporations is from Hopes of Gain, as we may judge by the vast Sums of Money that have been expended to procure *Charters*, and support their Powers, so the Way to make this Gain, is to make Use of that Privilege, (which is a Consequence of having a sole Trade) to deal secure, buy cheap and sell dear; from which must follow adventuring little rather than much: If by 20000 *l.* worth of Goods sent to *Guiney*, when bought cheap and sold dear, they they can get as much as by 40000 *l.* bought and sold at moderate Prices, they will, to lessen Adventures, send only 20000 *l.* But this Method is not advantageous to the *Nation*, which depends upon the Exportation of as many of our Goods to *Africa*, as can by any Means be consumed there; and it is not likely that Companies will make bold Adventures to open new Trades. And it may be suspected, that the two *Charters* for the *India* and *Africa* Trades, which comprehend above one quarter Part of the World, and those Places where it is most likely new and beneficial Trades might be discovered, have been a great Hindrance thereto; for notwithstanding the many Flourishes that have been made to ingratiate, nothing of that Kind hath appeared in

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Effect to be done by either of the said Companies.

As long as we had Judges that were of Opinion, that the Clauses in these *Charters* were good in Law, and gave Judgments accordingly, no Application was made to have these Trades settled by Act of *Parliament*; but of late Petitions have been preferr'd for that Purpose, and it has been propos'd that those Trades should be Settled in Joint-Stocks for 21 Years; which it may be feared, would in Effect, subject *our best Trades, and our Treasure, to the Mercy of an East-India Company, and the Trade of our Plantations to the Mercy of an African Company*; and the Variations and Changes that usually attend Trade, and the great Interest these Companies have for many Years made; by which they supported their Powers, tho' granted only by *Charter*, may be added as Arguments against settling of those Trades in Joint-Stocks for 21 Years exclusive, by Act of *Parliament*; lest whatever Mischiefs or Inconveniencies should attend it, a new Settlement, or Alterations should be found difficult or impossible to be attain'd.

As there is no precedent for settling Trades in Joint-Stocks by Act of *Parliament* for 21 Years; and a Prospect that it may be inconvenient to the Publick; so 'tis improbable that such a Settlement of the *East-India Trade* should prove advantageous to any particular Persons, excepting the Proprietors and Creditors of the present Stock, to whom the Common Seal is indebted from 5 to 600,000 *l.* upon Loans; for as 325,565 *l.* of the Money paid in by the last new Adventurers was presently taken and applied, to pay what was then owing on the Common Seal, which now lies heavy on those Adventurers, so either the 750,000 *l.* which was lately propos'd to be subscribed and paid

paid in by the new Adventurers (if those Proposals should be reassumed and take Effect) will be taken out immediately, and applied for the Payment of the Money now owing, and so leave little or none to carry on the Trade; or if not paid, then it must continue running on at 6 *per Cent.* Interest, and so prove a great Load upon the new Adventurers; which added to the disadvantageous Valuation of the old Stock, to which they must join their Money, may probably deter all Persons from adventuring, and then the Consequence of such an Act will be, that the Trade will be secured to the present Adventurers for 21 Years longer, which haply is chiefly designed. Whether any Act may be so made as to prevent these, and all other Discouragements to new Adventurers, must be left for Time to discover. “ But as the great Repute this Trade did get, was by their great Dividends, which did arise from their confining their Stock to 372,000 *l.* and trading with 7 or 800,000 *l.* of the People’s Money, taken up at low Interest, on a Common Seal; then doubling it, calling 100 *l.* 200 *l.* and selling it accordingly without bringing in any Money; by excising the People by Vertue of their Privileges, to have the sole selling of *East-India* Goods, and by such Additions as are made, by their War on the *Mogul’s* Subjects, and Interlopers, or by Stock-Jobbing, Private Sales, Private Trade, &c.” Though by such Methods as these, great Gains have been made, which have put it out of Dispute, that the Managers were a true Body Politick in Fact as well as in Name, yet haply, *if ever this Trade should be settled by Act of Parliament, such a Management as this may be exploded, and Care taken to prevent the like for the future.* And if Dividends should be made here-

after on 1,500,000 *l.* instead of 372,000 *l.* and the Trade be so settled that the Gains should arise by what is got from Foreigners, which can only enrich the Nation, and not so much out of our own People, which can only make Riches change Hands. Such Provisions, and the Incumbrances of the Debt before-mentioned, and high Valuation of the old Stock, will probably render such a Settlement of this Trade in a Joint-Stock a Grievance in a short Time, either to the new Members, if any come in, because it may not answer their Expectation in Point of Gains ; or to others, not Members of the Company, if notwithstanding such Care, extraordinary Means to get Riches out of our own People, should be practised as formerly ; or to the Nation in general, if the Exportation of our *Coin* without Limitation, and the Consumption of their manufactured Goods from *India*, should be permitted. Therefore it is as unlikely that such a Settlement should afford a general and lasting Satisfaction, as that a House built on the Sand, or with ill tempered Mortar, should be strong. And the *African* Company being also indebted, and having followed much the Pattern of the *East-India* Company, the like Difficulties may be suggested.

If our Necessities and Condition, as well as Reason, call upon us to settle Trade, as may be most for the Advantage of the Nation, it will be in vain to think it can be done, *as long as Arguments that have no Ground but from particular Interests shall be allowed.* “ Those that are engaged
 “ in any profitable Trade, will always be loath
 “ to part with it, whatever Arguments may be
 “ given that it is unprofitable to the Nation.
 Those that are in Possession of any Charter, that conveys to them a Trade exclusive to others,
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know it to be a great Privilege, and therefore will always do their utmost to preserve it to themselves. “ Though the great Gains such “ Corporations expect to make, must be by “ squeezing and griping our own People, which “ though they may enrich the Members of such “ Companies, yet cannot tend to enrich the Nation.

Few Arguments can be given for incorporating the *East-India* or *Guinea* Trades in Joint-Stocks, but what may be given for the incorporating of any Trade whatsoever, if any Assurance could be had, that when Men are incorporated for the carrying on of a Trade, they would mind the publick more than their particular Interests, not extend their Powers to the Prejudice of others, and be sure to determine at a certain Time, it would give some Incouragement for such Incorporations to be settled by Charters, or Acts of Parliament; but the contrary having appeared from Time to Time, *that private Interest hath over-ruled, without any regard to the publick, or to the Laws of the Nation, or to Liberty or Property,* and that they have not only extended but prolonged their Powers, even when the Persons so incorporated were untainted, as to their Dealings in their private Capacities. It thereby appears, there cannot be any such Assurance; and therefore, that unless for the incouraging of some new Invention, for a short Term of Years, “ the “ Consequence of setting up Corporations must “ be dangerous, both in Reference to the Publick and particular Persons; a Common Seal “ having, as we may judge by what hath past, “ been taken as a Shelter and Protection for any “ illegal or unjust Dealings, and a Security “ against any Man’s being accountable for what “ they may do, if they act in a Body Corporate; “ the

“ the Power and Interest of most Corporations
 “ having rendered all Endeavours for Satisfacti-
 “ on ineffectual, as too many have found by Ex-
 “ perience.

Some of these Notions about Companies with Joint-Stocks and Trade, do agree with what may be found in the *New Discourse of Trade*, Printed December, 1692, writ by a Gentleman, whose Knowledge, Judgment, and Experience in Trade cannot be doubted, and therefore are quoted to corroborate what hath been here offered.

Page 81. *That all Restrictions of Trade are naught, and consequently no Company whatsoever, whether they trade in Joint-Stocks or under Regulations, can be for Publick Good, except it may be easy for all, or any of his Majesty's Subjects to be admitted into all, or any of the said Companies, at any Time, for a very inconsiderable Fine; and that if the Fine exceed 20l. including all Charges of Admission, it is too much.*

Page 82. *Nothing in the World can enable us to cope with the Dutch in any Trade, but Increase of Hands and Stock; which a general Admission will effect.*

Page 161. *It is our Interest by Example, as well as other Means, above all kind of Commodities, to prevent the Importation, as much as may be, of Foreign Manufacturies.*

Page 203. *When we cannot preserve our Colonies by our Shipping, or so awe our Neighbours by our Fleets and Ships of Men of War, that they dare not attempt them, our Case will be sad, and our Property will be lost, or in eminent Danger, not only abroad but at home likewise.*

These Maxims about Trade in Joint-Stocks have had great Confirmation from Experience.
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The first *Charter* for the *East-India* Trade was settled, *Anno* 1600, for 15 Years; afterwards four more, which did not prove, in any respect, useful to the *Nation* by increasing Trade; whatever Advantages some particular Persons might make, by the Management of such Stocks. After some Course of Years all broke, to the Loss of the Adventurers in general, and Prejudice of the Trade; for the Trade to *Africa*, there have been also the like Number of *Charters*, with no better Success: And it may appear upon Examination, that when that Trade was open, near double the Quantity of our Goods were sent there, more than when carried on by a Company. The Management of the late Corporation for the *Linnen* Manufactory, *Paper*, making *Saltpetre*, and others, may be given as Instances to prove, that whatever specious Pretences may be made for Corporations, whatever Advantages have been made by particular Persons, by Stock-Jobbing, or indirect Ways, that few or none have ever yet proved advantageous to the *Nation*; and if the Ways and Means before-mentioned, by which the present *East-India* Company have increased Trade, and made great Dividends be true, no good Arguments can be drawn from thence, for erecting Corporations in Trade exclusive to others: And therefore, if the Method proposed for regulated Companies to trade in such Goods as may be thought convenient to be received from *India*, can be made practicable, it should be preferred before Joint-Stocks, being the most probable Way to make that Trade advantageous; it being possible that a Trade may be opened to *China*, for the Expence of our Cloths, where great Quantities, if introduced, would be consumed, and *Gold* is plenty; or from *Gambroon* to *Persia*, being the Carriage of our Goods that Way is not so charge-

chargeable as from *Aleppo*; or to the Kingdom of *Mindawo*, or other Countries or Places, of which there are great Numbers in those Parts to which we have not yet traded; or that we should then fall into a Way of imploying our Ships in those Parts, by trading from Port to Port: The most likely Way to make any clear Gains by that Trade, and the Trade to *Africa*, under such Regulations, is most likely to increase the Consumption of our Goods in those Parts.

The more hath been said about these Trades, because it is high Time some Settlement were made of them, as may be most advantageous for the Nation.



Extract from the Debates of the House of Commons, the 9th of November, 1680.

A Petition from the Bailiffs, Wardens, and Assistants of the Company of Silk-Weavers, was read,

Mr. *Speaker*,

Mr. *Birch*] Sir, this Petition branches it self, First, Against the Bill that is here afoot, for wearing of Woollen; Secondly, Against the Importation of Foreign Silks from *France*; and Thirdly, Against the *East-India* Company. As to the two first Particulars, I shall desire Leave to speak my Mind, when the Business comes to be debated in the Committee, to which you may think good to refer it: But as to the third Branch, against the *East-India* Company, I desire to be heard a little at this Time: For, Sir, it will be in vain for you to spend your Time in endeavouring to raise the Price of Wooll, or to advantage the Trade

Trade of the Nation any way, unless you do in the First place make some Regulation for the *East-India* Trade. For not only the *Silk Weavers*, but most of the other Trades of this Nation, are prejudiced by the Consumption of Goods manufactured in the *East-Indies*, and brought hither : For a great many of them are not only spent here instead of our own Manufacturies, but abroad in other Parts to which we send them. They do us the same Prejudice, which must in the end be the Destruction of our Manufactory Trade both at home and abroad, if not looked after ; and the more likely, because the People in *India* are such Slaves as to work for less than a Penny a Day ; whereas ours here will not work under a Shilling : And they have all Materials also very reasonable, and are thereby enabled to make their Goods so cheap, as it will be impossible for our People here to contend with them. And therefore, because the said Trade hath abundantly increased of late Years, that we may not enrich the *Indians*, and impoverish our own People, I humbly move you, that this Petition may be referred to some Committee, that may take particular Care of it.

Mr. Speaker,

Mr. Pollexfen] Sir, The Navigation to the *East-Indies* being, by the Industry and long Experience of our Seamen, rendered as safe and secure as to any Country adjacent; and the Trade increased to a great Proportion, by such a dangerous Way as the Exportation of our Bullion, and Importation of Abundance of Manufactured Goods, and superfluous Commodities; and carried on by a few Men incorporated, who have made it their Business, by all Ways imaginable, to secure the Advantages thereof to themselves and their Posterities, not permitting the People in general to

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come in for any Share ; I humbly conceive it may not be unseasonable to give you a short Scheme of that Trade, and to make some Remarks as well on the Trade, as present Management thereof ; it being settled in a Company, by Vertue of a Charter granted 1657, and confirm'd by his Majesty soon after his Restauration.

Sir, It is well known what Advantage redounds to this Nation by the Consumption of our Manufactures abroad and at home, and how our Forefathers have always discouraged such Trades as tended to the Hindrance thereof. By the best Computation that can be made, we now spend in this Kingdom, *per Annum*, to the Value of 2 or 300,000 *l.* worth of Goods manufactured in the *East-India* : What Part thereof are spent instead of our Stuff, Serges, Cheyneys, and other Goods, I leave to every Man's Judgment, that hath observed how their *Persian* Silks, Bengalls, Printed and Painted Callicoes, and other Sorts, are used for Beds, Hanging of Rooms, and Vestments of all Sorts. And these Goods from the *India*, do not only hinder the Expence of our Woollen Goods, by serving instead of them here, but also by hindering the Consumption of them in other Parts too, to which we export them, and by obstructing the Expence of Linen and Silks, which we formerly purchased from our Neighbour-Nations in return of our Manufactures. For when that mutual Conveniency, of taking of their Goods in return of ours, failed, it is found by Experience that our Trade in our Manufactures is failed also : And, Sir, this is not only at present a great but a growing Hindrance to the Expence of our Woollen Goods ; for, as it hath been observed to you, being the *Indians* do work for less than a Penny a Day, and are not without Materials, at cheap Rates, we
may

may rather tremble to think, than easily calculate, what this Trade may in time amount to; and may conclude, That it must certainly end in employing and enriching the People in the *India*, and impoverishing of our own.

But Sir, this is not all: This Trade is carried on by the Exportation of 5 or 600,000 *l. per Annum* in Bullion, which is so useful a Commodity, as ought not to be exported in so great a Quantity; especially seeing the Exportation thereof for this Trade, hath increased in some Years from 200,000 *l. per Annum* to 600,000 *l. per Annum*: For it may increase to Millions, to the Discouragement of the Exportation of the Products of our Country, upon which the Maintenance of our Poor, and Rent of Land depends. Whereas by the Exportation of so much Bullion, no immediate Advantage redounds to the Nation; and though it is usually affirm'd, That the Trade brings back to the Nation as much Money as it exports, yet upon an Inquiry it will be found a Mistake. And I think every Nation, but especially this, (which is so well stored with other Commodities for Trade) ought to be very jealous of a Trade carried on by the Exportation of their Gold and Silver, and to be very careful how to allow it; it being dangerous to make that which is the Standard of Trade, Merchandize it self.

And as these Objections arise against the Trade it self, so there are others against the present Management, of which the People do complain as a great Grievance; and I humbly conceive, not without good Cause. For the equal Distribution of Liberties and Privileges among the People, which is one of the Excellencies of the Government, is by this Company highly infringed, a very few of the People be-

ing permitted to have any share in this Trade, though it be now increased to near one quarter-part of the Trade of the Nation ; the Company finding it more for their particular Advantage to take up from 6 to 700,000 *l.* on a Common Seal, to carry on their Trade, than to enlarge their Stock, thereby reaping to themselves not only the Gains which they make on their own Money, but of the Treasure of the Nation ; allowing to them that lend, 4 or 5 *per Cent.* and dividing amongst themselves what they please, which now within these last 12 or 15 Months hath been 90 *per Cent.* And upon an exact Inquiry it will be found, that this Stock is so ingrossed, that about ten or twelve Men have the absolute Management, and that about forty divide the major Part of the Gains, which this last Year hath been to some one Man 20, to others 10,000 *l.* a-piece. So that here is the certain Effect of a Monopoly, to enrich some few, and impoverish many.

It's true, there is such a Thing as buying and selling of some small Shares in the Stock sometimes, if a Man will give 300 *l.* in Money for 100 *l.* Stock ; but this amounts to no more than the exchanging the Interest of *John Doe* for *Tho. Rowe*, and can be no Ways serviceable to bring in more Stock or People into the Trade, and therefore not to satisfy the Complaint of the Nation.

Sir, That you may the better apprehend how unreasonable it is that this Great Trade should be thus confin'd to the advantage of so few Persons, exclusive to all others, under the Penalty of Mulcts, Fines, Seizures, and other extraordinary Proceedings, I beseech you, Sir, to cast your thoughts on this great Body here by you, and the rest of the Corporations of this Nation, who
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most live by Trade, and consider how many thousands, if not Millions, there are, whose Lot Providence hath cast on Trade for their Livelihoods; and then, I am apt to believe, it will appear very strange that so great a Trade should be so limited. If three such Charters more should be granted, what would the Major Part of the People do for Maintenance? Sir, the Birth-right of every *Englishman* is always tenderly considered in this Place: By this Company the Birth-right of many thousands is prejudiced, and may well deserve a serious Consideration; and therefore, and because this Company, by having the command of the Treasure of the Nation, cannot be controuled by any less Power than that of a House of Commons, this Business comes, as I humbly conceive, naturally before you.

But, Sir, there is one thing more in the Management of this Trade worthy your Consideration; The great danger which may result, as well to Private Persons as to the Publick, by taking up such an immense Treasure on a Common Seal. Sir, we all know what happened some Years since by the Bankers taking up such great Sums on their private Seal; how it proved a Temptation for the committing of a great Violation on the Subjects Property, which in all Probability preceeding Parliaments would have prevented, if they had foreseen; though I hope there is no Danger that the like will ever be done again; yet, Sir, you may do well to secure it, either by making some Vote, if not a Law, to prevent it. And I am the more forward to move you herein, because I have heard, since I had the Honour to sit within these Walls, that in the late Long Parliament there were Members who, by voting for Money, got Shares to themselves; I have a good Opinion of these Gentlemen that at present
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have the Management of the Trade, but if a few such Persons as I have mention'd should succeed them, with the same Priviledge that these have, of taking up what Money they please on a Common Seal, to what Danger might the Treasure of this Nation be reduced, and how might it not be disposed of, by Dividends, Loans or otherways. The taking up of so vast a Treasure on a Common Seal, must be attended with great Danger, and therefore as well for that as for the other Reasons alledged, I hope you will take this Affair into your speedy Consideration, that so some Remedies may be applied hereto.

Mr. Speaker,

Mr. Love] Sir, By the Account which hath been given you of the *East-India* Trade, I doubt not but you are sensible, how that it will in Time ruin a great Part of the Trade of our Manufactures, if not prevented. The *East-India* Company have been very industrious to promote their own Trade, but therein have given a great Blow to the Trade of the Nation. The *Indians* knew little of dying Goods, or ordering them so as to be fit for our *European* Markets, until the Company sent from hence *Englishmen* to teach them; which I am afraid this Nation will have Cause to repent hereafter. For the Cheapness of Wages and Materials in the *Indies*, must enable the *Indians* to afford their Manufactured Goods cheaper than any we can make here, and therefore it is probable the Trade will increase prodigiously, which may be a good Motive for you to take into your Consideration that Part of it, in which the Consumption of our Manufactures is concerned. They have already spoil'd the *Italian* and *Flanders* Trade, with their *Silks* and *Callicoes*; now they will endeavour

deavour to spoil the *Turkey Trade*, by bringing Abundance of raw Silk from the *Indies*. So that ere long we shall have no Need to have Silks from Turkey, and if not, I am sure we shall not be able to send any Cloths or other Goods thither. And it cannot be expected that the *Indians* should grow weary of exchanging their Manufactured Goods for our Gold and Silver, nor the Company of the great Gains they make by their Trade, and therefore, unless prevented by your Care, the Trade will go on to your Prejudice, the Company having been industrious to secure themselves against all other Attempts, by New-Years Gifts, imploying of some Men's Money at Interest, and getting others into the Company, and then chusing them of the Committee, though they understand no more of the Trade, than I do of Physick; also naming of Ships by great Men's Names is made use of for the said Purpose, and Oaths which they impose on all Persons they imploy in any Business of Importance, so that there is no ordinary Way left to reach them. Therefore, Sir, I hope you will refer the Business to some Committee, that may make you a speedy Report.

Resolved, *That the said Petition be referred to the Grand Committee for Trade, and they are to proceed upon the same in the first Place, and they are then likewise to consider of the present State of the East-India Company, and to report the same, with their Opinions thereon to the House.*

Proceed-



*An Account of the Proceedings in Parliament,
Anno 1698, relating to the East-India
Company.*

THE Old Company having offer'd to advance 700,000 *l.* at Four *per Cent.* for the Service of the Government, in case the Trade to *India* might be settled on them, exclusive of all others, the House seem'd inclin'd to embrace their Proposal; when another Number of Merchants, of whom one *Shepherd* was the Chief, and who were protected by Mr. *Mountague*, Chancellor of the Exchequer, propos'd to the House to raise Two Millions at 8 *per Cent.* on Condition the Trade to *India* might be settled on the Subscribers, exclusive of all others: They also propos'd that these Subscribers should not be obliged to trade in a Joint-Stock; but if any Members of them should afterwards desire to be incorporated, a Charter should be granted to them for that Purpose. The House judg'd this new Overture not only to be more advantageous to the Government, but likewise very likely to settle this controverted Trade on a better Foundation than it was on before. A Bill was therefore, on *May* 26, ordered to be brought into the House for settling the Trade to the *East-Indies* on those who should subscribe the Two Millions, according to the Limitations before-mentioned, and the following Resolutions: *First*, " That
" every Subscriber might have the Liberty of
" Trading Yearly, to the Amount of his respective Subscription; or might assign over such
" his

“ Liberty of Trading to any other Person. *Se-*
 “ *condly*, That his Majesty be impowered to in-
 “ corporate such of the said Subscribers, as
 “ should desire the same. *Thirdly*, That the
 “ Powers and Privileges for carrying on the *East-*
 “ *India* Trade, should be settled by Parliament.
 “ *Fourthly*, That the said Subscribers should en-
 “ joy the said Eight Pounds *per Cent.* and Liber-
 “ ty of Trading to the *East-Indies*, exclusive of
 “ all others, for the Term of ten Years, and un-
 “ til the same should be redeemed by Parliament.
 “ *Fifthly*, That every Person subscribing Five
 “ Hundred Pounds, have a Vote; and no Per-
 “ son to have more Votes than one. *Sixthly*,
 “ that all Ships laden in the *East-Indies*, should
 “ be obliged to deliver in *England*. *Seventhly*,
 “ That no Person that should be a Member of
 “ any Corporation Trading to the *East-Indies*,
 “ should Trade otherwise than in the Joint-Stock
 “ of such Corporation of which he was a Mem-
 “ ber. *Eighthly*, That Five Pounds *per Cent. ad*
 “ *Valorem*, upon all Returns from the *East-Indies*,
 “ be paid by the Importer; to be placed to the
 “ Account of the Subscribers, towards the Charge
 “ of sending Ambassadors, and other extraordi-
 “ nary Expences. And *Ninthly*, That over and
 “ above the Duties now payable, a further Du-
 “ ty of One Shilling and Ten Pence *per Pound-*
 “ weight, be laid upon all Wrought-Silks im-
 “ ported from *India* and *Persia*; to be paid by
 “ the Importer.” This Bill being accordingly
 brought into the House, the Old *East-India* Com-
 pany presented a Petition against it: To which
 the Commons had so much Regard, as to offer
 them to settle this Trade upon them, if they
 would accept it upon the same Terms and Limi-
 tations, on which the others were contented to
 take it; and which the Parliament judged most

Advantagious for the Kingdom. But the Members of the Old Company having rejected this Proposal, the Commons, on *June* the 25th, passed the Bill in Favour of the New Adventurers.

The Old *East-India* Company follow'd the Bill to the Upper House, where they were heard by their Council, Sir *Thomas Powis*, and Sir *Bartholomew Shower*, who represented, " That this Bill
 " invaded their Property, and ruin'd many Families, That in the Charters granted them by
 " Queen *Elizabeth*, King *James I.* King *Charles II.*
 " and King *James II.* it was suggested, That
 " their Corporation was for the Honour of *England*, for the Increase of Navigation, and the
 " Advance of Trade. That the said Charters
 " contained a Grant of the Trade to the *East-Indies*, to the Company, exclusive of all others.
 " That by some of them they were constituted
 " the Lords Proprietors of *Bombay*, and of the
 " Island of *St. Helena*, That by these Grants
 " they were induced to think they had a Right
 " in Law to the Trade; at least, that they should
 " have an uncontroverted Title to the Lands:
 " And that on this Presumption, and relying on
 " the Publick Faith and Credit of the Great
 " Seal of *England*, they had expended above a
 " Million in Fortifications, and acquir'd Revenues of 44000*l.* per Annum, and many Settlements and Privileges. That in the Year 1691,
 " the House of Commons had made a Resolution, That the *East-India Trade* should be carried
 " on in a Joint-Stock, exclusive to all others. That
 " their Company was confirmed and settled by
 " Three Charters, granted by his present Majesty, on the 7th of *October*, and 17th of *November*, 1693, and 28th of *September*, 1694.
 " That upon the Security of these Charters, the
 " Company consented to a New Subscription:
 " That

“ That there was a-new subscrib’d 744000*l.* and
 “ the Money brought in during the Sitting of
 “ the Parliament ; and that nothing was done,
 “ said, or offered against his Majesty’s Charter
 “ of Regulations : So that upon the Publick
 “ Faith, (at least tacitly given) 781 New Ad-
 “ venturers, of which many were Widows and
 “ Orphans, did subscribe a large Part of their
 “ Substance to support this Trade, during a ha-
 “ zardous War, for the Profit and Honour of
 “ *England* : And that the New Adventurers
 “ thought they might, without any Hazard, sub-
 “ scribe on the Security of a Charter, which
 “ was so plainly design’d by his Majesty to pre-
 “ serve the *East-India* Traffick, then in Danger of
 “ being lost. That on the 10th of *June*, after
 “ the Bill now depending before their Lordships
 “ was brought in, the Company did agree to
 “ submit their present Stock to a Valuation of 50*l.*
 “ *per Cent. viz. 20l. per Cent.* for their Dead
 “ Stock, and 30*l. per Cent.* for their Quick Stock,
 “ which they were contented to warrant at the
 “ said Sums : And upon these Terms they of-
 “ fered to open their Books for New Subscripti-
 “ ons, in order to raise the Two Millions.
 “ That afterwards, to ascertain the Payments of
 “ the said Two Millions, they had a General
 “ Court on the 20th of *June* ; in which they
 “ agreed to an immediate Subscription by pri-
 “ vate Adventurers of 200,000*l.* to be paid at
 “ the first Payment, subject to make good the
 “ subsequent Payments : Which Subscription was
 “ accordingly made. That it has been the con-
 “ stant Practice, in Farms, Bargains, and Offers
 “ of the like Nature, not to close with a new
 “ Proposal, till the first Bidder be ask’d, Whether
 “ he is able to advance further ? And that not-
 “ withstanding their Charters, and the Right

“ they had to the Trade, they were early told,
 “ Their Proposal should be opposed, tho’ they
 “ offered the Two Millions in Question. And
 “ lastly, That the Bill allowed Foreigners as well
 “ as the King’s Subjects to subscribe to the Two
 “ Millions ; whereby they would be let into the
 “ Secrets and Mysteries of this Trade, which
 “ might produce Effects very pernicious to the
 “ General Interest of the Nation.

To this the Council for the New Subscribers
 replied, “ That in the Recital of their Charters,
 “ the Old Company had omitted to give an Ac-
 “ count of the Proviso’s inserted therein ; viz.
 “ *That the respective Kings that granted them, re-*
 “ *served a Power to make them void upon Three*
 “ *Years Warning.* That the King by his Charter
 “ could not grant the Trade to the *East-Indies*, ex-
 “ clusive of all others ; and that several Recove-
 “ ries had been made against them at Law, for
 “ prosecuting such pretended Right. That as the
 “ Crown has not a Power to grant such a Right,
 “ so his present Majesty had not in Fact granted
 “ any such Right exclusive. That when they men-
 “ tion’d the Resolution of the Commons in 1691,
 “ they omitted their other Resolution, *That it was*
 “ *lawful for all Persons to Trade to the East-Indies,*
 “ *unless restrained by Act of Parliament.* Neither
 “ did they take Notice of the two Addressses made
 “ by the House of Commons to the King in 1691,
 “ and 1692, to dissolve the Company. That on
 “ the 14th of November, 1692, Sir Edward Seymour
 “ deliver’d to the Commons a Message from his
 “ Majesty, importing, That his Majesty had re-
 “ quired the *East-India* Company to answer di-
 “ rectly, Whether they would submit to such
 “ Regulations as his Majesty should judge proper
 “ and most likely to advance the Trade ? And
 “ the Company having fully agreed to it, and
 “ de-

“ declar’d their Resolution in Writing, his Ma-
 “ jesty had commanded a Committee of his Privy
 “ Council to prepare Regulations, which they
 “ did, and offered them to the Company; but
 “ that notwithstanding their Declaration of Sub-
 “ mission, they rejected almost all the material
 “ Particulars. So that his Majesty finding that
 “ what possibly the House of Commons might
 “ have expected, and indeed was necessary to
 “ preserve this Trade, could not be perfected by
 “ his own Authority alone; and that the Com-
 “ pany could not be induced to consent to any
 “ such Regulations as might have answered the
 “ Intentions of the House of Commons, and that
 “ the Concurrence of the Parliament was requi-
 “ site to make a compleat and useful Settlement
 “ of this Trade, he had directed all the Proceed-
 “ ings in this Matter to be laid before them; and
 “ recommended to them the preparing such a
 “ Bill, in order to pass into an Act of Parlia-
 “ ment, as might establish this Trade on such
 “ Foundations as were most likely to preserve
 “ and advance it.” ’Twas also urg’d against the
 Old Company, that their Charter being become
 void by their Non-payment of the Tax imposed
 upon them by Parliament, they obtain’d a New
 Charter the 7th of *October*, 1693, by indirect
 Means, having that Year paid Eighty odd Thou-
 sand Pounds out of the Company’s Stock, for
 special Service. That this Charter was contested
 before the Queen and Council, by those they
 called *Interlopers*; upon the hearing whereof it
 was unanswerably proved, That the King had
 not by Law a Power to grant the Trade to some
 Persons, exclusive of others; and that the Com-
 pany’s Affairs were then in such a Condition, that
 it would be a plain Cheat to others, that should
 come in upon their Stock. They however, Law
 and

and Reason failing, had recourse to other Methods, and great Sums of Money were distributed, (as it was acknowledged before a Committee of both Houses of Parliament) to get another Charter; but that those who were concerned to advise his Majesty in Point of Law, were so just to their Trust, as to take Care that no Right of Trade, exclusive of others, was granted: And also that the Company should submit to such Alterations, Restrictions, and Qualifications, as the King should make on the 29th of *September*, 1693, following. And so on the 17th of *November*, 1693, a new Charter of Regulations was made, and another the 28th of *September*, 1694. wherein, amongst other Things, was this Proviso; *That if it should appear to the King, his Heirs, and Successors, that the said two Charters, or any other Charters heretofore granted, should not be profitable to the King, his Heirs, and Successors, or to this Realm; that then and from thenceforth, upon and after Three Years Warning to be given to the said Company by the King, &c. the same should cease, be void, and determined.* That it appear'd by the Proceedings of the House of Commons in 1694, how this Charter was obtained, which had more in it of private Promises than publick Faith: That it was not to be wondered, that the Parliament took no Notice of the Matter, whilst the new Subscribers paid in their Money, when it was considered, that, according to Sir *Basil Firebrass's* Depositions, *there were several Contracts, some to the Value of 60000 l. on Account of procuring a new Charter; and others to the Value of 40000 l. on Account of procuring an Act of Parliament.* That by such Means the Matter might be overlook'd for a while, but it was not long before the Parliament took publick Notice of it; and if the greater Affairs of the Nation had not been so

so urgent, and the Session being so near an end, perhaps the Company might have had Justice done them then, and had been past complaining of any imaginary Injustice done them now. That therefore it was plain, that it was not for the Profit and Honour of the Nation, and to support the Trade, that the New Subscribers came in, but that they were deluded into it by a Charter obtain'd by indirect Ways, and by the Hopes of an Act of Parliament to confirm it, to be obtained in the same Manner. That the Trade would have been much better preserved, and more to the Honour of the Nation, if no such underhand Practices had been carried on. That if some Persons thinking themselves to have a greater Reach than others, or being deceived by the Old Company's making his Majesty believe their Stock to be worth 750,000 *l.* and by afterwards sharing 325,000 *l.* of the New Subscribers Money among themselves, or by the Persons failing them who had promised to get an Act of Parliament, or by Losses at Sea, or by what other Means soever it were, happened to fail in their Expectation, no Body was answerable for it but themselves; especially since they had Warning enough by the Transactions before the Council. 'Twas alledg'd further, That in *Edward III.* and Queen *Elizabeth's* Reign, upon Complaint in Parliament of Patents granted for Monopolies, most of them were immediately revoked, and the rest left to the Law. That in King *James the Ist's* Time an Act of Parliament pass'd, to make void a Charter for the sole Trade to *Spain*, and another against all Monopolies. That though the Patents for some Trades with Joint-Stocks (whilst the Trades for which they were granted were in their Infancy) had been permitted for the Settling of a Trade, and till the first Adventurers have reaped some reason-

reasonable Compensation for their first Undertaking and Adventures; yet afterwards when those Trades have increased and become great, the Wisdom of the Nation has always thought fit to open a Way for the Kingdom to receive a general Benefit thereby. That it never was esteemed a Breach of the publick Faith, or a Derogation either from the Credit of the Great Seal, or from the Honour of our Kings, to have their Patents annulled by Parliament, when the Grants were thought by that Grand Council of the Nation, not to be profitable, or to be against the Common Right of the Subject; and that no King or Queen thought themselves bound in Honour or Conscience not to pass an Act of Parliament to make void such Patent. That the King being busied in the many arduous Affairs of the Kingdom, cannot be supposed to know always what he might legally grant, and is oftentimes deceived in his Grants, and for that reason they are often annulled by the ordinary Course of Law; and so might this Company's Patent have been: For all Persons having a Right by Law to Trade to the *East-Indies*, unless excluded by Parliament, the King by his Charter could not grant to the Company any new Right to the Trade, besides the Privileges of an Incorporated Body; but that the Commons justly bearing a high Veneration to his present Majesty, who had run so great Hazards, and perform'd so glorious Atchievements for the Honour and Good of the Nation, had notwithstanding taken Care in this Bill, that nothing should interfere with his Majesty's Patent. That by this Patent the Old Company had indeed Power to Trade to the *East-Indies*, and other Privileges, but without any express Clause to exclude others, or any Covenant, (as was in the former Char-

ters

ters from the Crown) that His Majesty would not grant likewise to others, to Trade thither during the Continuance of the said Charters : So that even according to the Charters themselves, all others Subjects of *England* had a Right to trade to the *East-Indies*, and many actually traded thither without any Hindrance. That tho' the Old Company talk'd so much of their Dependence on the Security of their Charters, yet they themselves were convinc'd that their Right was not well founded, since they had formerly laid out so much Money to get an Act of Parliament to confirm their Charters; and had lately offer'd to lend 700,000 *l.* to the Government, to have the Trade to themselves, exclusive of all others. As to their offering afterwards to raise Two Millions, it was answer'd, That they made no such Offer with an Intention that it should take Effect, but only as an Amusement to gain Time, and so to baffle the Bill ; for when they agreed to submit their Stock to a Valuation of 50 *l. per Cent.* they knew very well that others did not value it at any thing near so much : And as to their Subscribing 200,000 *l.* subject to make good the subsequent Payments of the Two Millions, that it was only to obtain what they had been so long aiming at, *viz.* An Act of Parliament *exclusive* for the Sum of 200,000 *l.* whereby the King would be defeated of a much more considerable Loan ; others delivering us Subscriptions for about 1,200,000 *l.* And finally, that the Old Company heretofore thought it an Advantage to admit Foreigners into their Trade, and that many were actually now in the present Company, tho' they were pleas'd to argue against it. The Lords weigh'd the Reasons on both Sides, and chiefly consider'd that the Old Company's Proposal to lend the Two Millions, was like to

prove ineffectual, by reason that some of their Principal Members were known to have no great Affection to the present Government; so that upon mature Deliberation, their Lordships gave their Concurrence to the Bill, which on July 5. receiv'd the Royal Assent.

The Bill being pass'd, the Commissioners appointed by his Majesty for taking Subscriptions towards the raising of Two Millions, and for settling a *New East-India Company*, laid open their Books at *Mercers-Hall*, on *Thursday* the 14th of *July*, 1698. And such was the Zeal which People of all Ranks, and even Foreigners, shew'd on this Occasion to assist the Government, and promote the Trade of the Nation, that on the *Saturday* following the whole Sum, and something above it was subscrib'd: Nay, it's very probable that Two Millions more had been subscrib'd, had not the Books been shut up before the distant Corporations, private Men in remote Countries, and Merchants beyond Sea, could remit their Commissions for the great Sums they intended to subscribe.



Extract from a Pamphlet, entituled, The Advantages of the East-India Trade to England consider'd.



THE *East-India Trade*, the more open, and the closer driven, must needs import more Profit to the Kingdom, and less disturb the *English* Manufactures.

'Tis very probable the Profit of an open Trade is a great deal less in Proportion to the Stock imploy'd

imploy'd in it, and therefore the Merchant that feels the Difference, will be very ready with his Complaints; 'tis without doubt, more profitable for a Merchant to imploy his Stock in Trade, so as at the End of the Year to receive his Principal again, with Gain besides of Twenty for every Hundred, than to imploy as much Stock for half as much Profit. But 'tis better and more profitable for the Kingdom, that 300 *l.* should be imploy'd in Trade for the Profit of 10 *per Cent.* than but 100 *l.* for the Profit of 20 *per Cent.* wherefore, less in Proportion and more in Quantity, must be esteem'd as greater Profit.

This then will be the Consequence of the *East-India* Trade, laid more open and closer driven; The Profit will be less in Proportion but more in Quantity. 'Tis reasonable to believe, that a Company cannot trade so much to the publick Benefit; a Company of Merchants trading with a Joint-Stock, is but one only Buyer, one only Seller; they manage their Trade with the Pride and Charge that becomes the State of Kings; they expect to be followed by the Market, and therefore never stir beyond the Warehouse, whither if Customers come, they are forc'd to wait 'till the Auction is ready to begin: In an open Trade, every Merchant is upon his good Behaviour, always afraid of being under-sold at home, always seeking out for new Markets in Foreign Countries; in the mean time, Trade is carried on with less Expence: This is the Effect of Necessity and Emulation, things unknown to a single Company. A Trade so far extended, so much better husbanded, however less profitable in Proportion to the Merchant's Stock, must needs import more absolute Profit to the Kingdom.

Also, the Examples of parallel Cases make it very credible, that a more open *East-India* Trade and

closer driven, tho' it may be less profitable in Proportion to the Bulk of it, will yet be more profitable to the Kingdom. In the time of Sir *Thomas Gresham*, perhaps he was the only Merchant in *England*: Wonderful Things are storied of Trade and the Profit of Trade in that Age; for every Hundred Pounds at the End of the Year, besides the Principal return'd again, Two or Three Hundred Pounds are said to have been divided between the Customs of the King and the Merchant's Gain. 'Tis scarce credible, that at this time more than the Profit of 20 or 30 *per Cent.* can be divided between the Merchant and the King; but then from the Difference of Customs, and for other Reasons, we may very well believe, that for every Hundred Pounds in the Age of Sir *Thomas Gresham*, Ten Thousand Pounds are now imploy'd in Trade; and consequently, for every Hundred Pounds gain'd in that Age, at least a Thousand Pounds are gain'd in this; indeed a great deal less in Proportion to the Stock, but more in Quantity. The *African Trade* was very lately, like that of the *East-Indies*, carried on by the Joint-Stock of one single Company; it is not laid quite open now, only private Traders are admitted upon Payment of a Mulct to the Company; the Consequence of this is, that Ten Ships are employed in that Trade for one before, Ten hundred Pounds for one before. It will hardly be pretended by the Company, that when the Trade was all their own, they divided more to the King and Company than 100 *per Cent.* And it will hardly be deny'd by the present Traders, that 20 or 30 *per Cent.* is divided to the Customs and their own Profit; and this is likewise less in Proportion to the present Bulk of the Trade, yet more in Quantity. Now, if this has been the Consequence of other Trades enlarg'd, and closer driven,

driven, why should it not be the same of the *East-India* Trade enlarg'd and closer driven?

But indeed, this is the Consequence: The *East-India* Trade enlarg'd by the Emulation of two Companies, may be less profitable to the Merchant; certainly it must import more Profit to the Kingdom. While one only Company enjoy'd that Trade, I will believe, that every Hundred Pounds exported into *India*, return'd in Value besides the Principal, 50*l.* to the Customs, and double that Sum to the Merchant's Gain; in all 150*l.* This was great Profit. But at this Time, the Stock in that Trade is four times as great as 'twas before, that is, Four hundred Pounds for one; four hundred Pounds must now return in value, besides the Principal, as much in Proportion to the Customs, in all Two hundred Pounds, and something over to the Merchant's Gains, perhaps one hundred Pounds for all the four. And thus the Trade is four times as great as 'twas before; the Profit is only doubled; the Profit is less in Proportion to the Bulk of the Trade, but more in Quantity.

Less Profit in Proportion, but greater in Quantity, is greater Profit: From Reason, from the Experience of other Trades, and even of this very Trade, it appears, the more open the same shall be, and closer driven, it may indeed import less Profit in Proportion to the Bulk of the Trade, yet must import more in Quantity, and consequently must needs be more profitable to the Kingdom; And thus again, notwithstanding the Prices of Things rais'd in *India*, abated here, the Bullion is still exchang'd for greater Value.

'Tis true, if this Trade shall be carried on with the greatest Freedom, if every one shall be permitted to employ his Stock in it, by Degrees it will be driven so very close, that nothing of Profit will be glean'd from it; the Merchant will
be

be disabled to import the *Indian Manufactures* cheaper, than as good Things may be made in *England*. Then there will be Truth in his Complaint, the Exchange will be unprofitable, and must be given over. But then 'tis fit the Merchant should be told, that the *East-India Trade* is not carried on for his sake, but for the Kingdom's.

To break both Companies is not the Way to lose the Profit of the Trade; the Trade is then laid open, the Profit thereof must needs encrease; the necessary Forts and Castles may be as well maintain'd at the Publick Charge; and this may be better paid by the greater Gain of an open Trade. The want of Factories can be no Complaint: A greater Trade must needs increase these; it has done so in every Country; the Reason is alike in all; or Factories must be as well secured by Forts and Castles, under the immediate Care of the Government, as if the same were maintained by the Joint-Stock of a Company.

If it has really entered into the Thought of any Gentlemen of the old Company, to offer to advance this Loan to the Parliament at half the Interest for all the Trade; if this is intended to be propos'd to the Wisdom of a Nation as a beneficial Bargain, this of all Things is most extravagant and amazing. The Kingdom, that is, the Body of the People, is neither richer nor poorer, whether an Hundred Thousand Pounds *per Annum* be paid to a Company of *English* Merchants, or remain at the Disposal of the Government. But the Nation possibly, is by half a Million yearly richer, as long as this Trade is so much enlarged by the Emulation of two Companies, than if 'twere reduced to the Joint-Stock of one. If so great a Yearly Profit is not to be given up to Peace and Ju-

Justice, 'twill never be given away for nothing; the Wisdom of Parliament will never be so far over-reach'd by the Cunning of Merchants.

I rather hope to hear of Ways and Means to pay this Loan of both the Companies, to buy their Forts and Castles, and whatsoever is their Right of Trade: These might be valu'd by a Jury of twelve indifferent and understanding Men; what ever by these shou'd be awarded, wou'd soon be paid by the Customs of this Trade: And thus the Trade would be laid quite open to all the good People of *England*; by this Means no Injustice wou'd be done, and these Advantages wou'd be obtained:

First of all, an End wou'd be put to the Trade of Stock-Jobbers; unskilful and unwary Men are enticed away, from certain Profit to pursue uncertain Hopes; after great Revolutions of the Game, their Hopes at last are disappointed, their Stocks are left among the Artists, their Industry is lost to the Kingdom, their Families are undone. 'Tis in vain to forbid the Thing by Laws; Laws are eluded by the Subtilty and Cunning of Men; the Thing is practis'd more than ever: To break both Companies, is not only to forbid the Corruption, but to tear it up by the very Roots.

Stocks in the Warehouses of private Merchants rise and fall, and no Man knows it but themselves; however they rise in Value in spite of Wars. Companies are frighted by Wars and Rumours of Wars; the Joint-Stocks fall, and every one must hear it; and this engages the private Interest of some, the Fear of others, to disturb the publick Resolutions: To be rid of this Inconvenience, were worth a great deal to the Nation; to break both Companies were half the Way to do it.

Of

Of Companies, Committees have always separate Interests of their own ; Commands of Ships ; Places, and Governments to sell ; however it fares with the Joint-Stock, the Trade to these Men is always profitable. These do not care to part with their Places ; and this perhaps has chiefly held off the Union of both the Companies. The Corruptions which they have practised themselves, they have learned to practise upon greater Men than themselves. Vast Sums are gone, which are not yet, nor ever will be brought to Account. To break both Companies, is the surest Way to break these Practices ; to make Men honest, is to take from them all Temptations to be otherwise.

By this, our Heats and Animosities will be removed, our Breaches healed, the Kingdom once again in Peace. If such Mischiefs have been created by the distracted Counsels of both Companies, what may be feared from the united Strength of both ?

To purchase these Advantages, nothing is given away that's valuable ; the Trade already enlarg'd by the Emulation of two Companies, by the Dissolution of both, will yet be more enlarged. A Trade more open and closer driven, will be more profitable to the Kingdom. Prices of Things may be rais'd in *India*, abated here ; nevertheless, as long as this Trade shall be carried on, the same will be an Exchange of less for greater Value ; and when it ceases to be such, 'twill then be time to give it over.



Extract from Mr. Wood's Survey of Trade.



AS to the putting all the Subjects of *Great Britain* upon an equal Foot, and giving them an equal Right of *Trading* to all Parts of the World ; I think nothing can be more just, or more for the Interest, nor can it fail of greatly encreasing the *Trade* and *Naviga- tion*, of this Kingdom ; and it is to me, not a little surprizing, that since the *REVOLUTION* *Englishmen* should be any of them deprived of the Liberty of *Trading* to any Part of the known World.

It is true, they are not deprived without their own Consents, that being included in the Acts of Parliament which give any particular *Trades* to any Corporation or Community of Persons ; but yet as they may, many of them, find themselves aggrieved, by the Continuance of any Laws that are in themselves prejudicial to the general Good of the Kingdom, they have a Right, and ought to represent the same to the Legislature, and pray the Repeal of such Laws ; and there is no doubt, however the Necessities of the Times might be the Cause of depriving them hitherto, that a true *British* Parliament will take the Premises into mature Consideration, and give every *Briton* an equal Right of *Trading* to all Parts of the known World : Freedom of *TRADE* being a Fundamental Part of *British* Liberty.

We may find some of our Princes granting Charters to particular Persons, for enlarging and carrying on the sole *Trade* to particular Places or Countries ; thereupon Acts of Parliaments are

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made “restraining any Monopolies of any *Trade*,
 “to Foreign Parts, and giving all the Subjects of
 “*England* an equal Freedom to Trade to all
 “Foreign Countries; and declaring, that Char-
 “ters of Incorporation, disabled all other the
 “Subjects of the Realm, and debarred them
 “from enlarging the Traffick of it, to the ma-
 “nifest impoverishing of all Owners of Ships,
 “Masters, Mariners, Fishermen, Clothiers,
 “Tuckers, Spinsters, and many Thousands of
 “all sorts of Handicraftsmen, besides the De-
 “crease of the Subsidies, Customs, and other
 “Impositions, and the Ruin and Decay of Na-
 “vigation; together with the abating of the
 “Prices of our *Wooll, Cloth, Corn*, and such
 “like Commodities, and inhancing those from
 “Abroad, &c.

The *Trade* to *Africa* being already free and open, it is requisite for the People to prevail with their Representatives to make the *East-India* and *South-Sea* Trades so likewise; and I think the Reason given against Charters of Incorporation formerly, may be as truly laid down in the Preamble of an Act of Parliament for repealing of *them*.

I am not unacquainted that these Corporations have considerable Sums of Money owing them by the Government, and the sole TRADE by Act of Parliament, for a long Time; yet I cannot think, but that if the Nation shall pay them their Money, the Proprietors are generally such Lovers of the Publick, that they will not oppose the doing a Thing, which cannot fail bringing so great a Good to their Fellow-Subjects, and is so much for the Benefit of their Country.

It may be remembred, that for many Years before, and after the REVOLUTION, there was great Clamour and Complaints against the old

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East-India Company for their Oppression, as well as Monopoly, of a TRADE of such vast Extent, which includes so great a Part of the Globe, and so perfectly known by the *British* Nation; and the Parliament, when they borrowed 2,000,000*l.* on the Trade to the *East-Indies*, did not think it the Interest of *England* to settle that Trade in an *Exclusive* Company, but in a *Regulated General* Society, giving the Trade to the *East-Indies* to those Persons who should so advance the 2,000,000*l.* for the Service of the Publick; to every Person severally by Name, in Proportion to his Subscription, however it may be now ordered, and only carried on by the *Corporation of English Merchants Trading to the East-Indies*.

But if those things which were Objections formerly, are of any Consideration now, against a *Monopoly* of such a Trade, altho' the Proprietors should not be so good Patriots, and Lovers of their Country, as to consent to the departing from *this* Right of Trade, notwithstanding they shall be paid their Money; yet, if a Parliament shall see it the Interest of the Kingdom, not to have an *Exclusive* Company, but a *General Regulated* Society, for carrying on the Trade to the *East-Indies*; surely that which is thought to be for the Good and Advantage of the whole Kingdom, shall take place: Surely it is as just and reasonable that *this* Company should be foreclosed, in Favour of the whole Nation, as the *Old East-India* Company formerly, and the Separate Subscribers to the present Company not many Years ago, in favour of *them*.

Dr. *Davenant*, than whom no Man was a greater Advocate for carrying on the *East-India* Trade by an *Exclusive* Company to be establish'd by Act of Parliament, thus expresses himself; " Suppose

" a Bargain made, and an Establishment granted

“ for many Years upon a valuable Consideration,
 “ the Supreme Power can never be so bound up,
 “ but that it may justly exert it self, whenever
 “ Corruptions, Misgovernment, Neglect of Na-
 “ tional Interest, or any other Abuses of their
 “ Privileges and Settlement, shall call upon the
 “ Legislative Authority for Correction.”

My Business is not to charge *this Company* with Corruption, Misgovernment, or any *Abuses* of *their* Privileges and Settlement, but to show that it is against the *National Interest* that *this Trade* should be carried on by an *Exclusive Company*; and that the laying it *open* would be a great Advantage to the Kingdom in general: But before I enter into this, I shall premise an Objection I have heard made to the laying *this Trade* open, which, perhaps, takes in the whole Extent of what can be said against the *East-India Trade* in general; and in the considering of which, I shall naturally fall into the main Argument and Reasons, why *this Trade* should be made *free* to all his Majesty's Subjects.

The Objection is, That the EAST-INDIA TRADE is a disadvantageous *Trade* to EUROPE in general, and to Us particularly; by draining our coined Silver and Bullion, the *Ballance* of TRADE with other Countries, and bringing Home *mostly* Goods which hinder the *Consumption* of our own *Manufactures*, and that the *Re-exports* are by no Means *equal* to what is paid for *them*; and therefore the laying of this *Trade* open would be much more detrimental to us, and this Nation thereby the *more* exhausted; and its being *cramped* by a *Company*, is rather a *Saving* than a *Loss* to the PUBLICK.

In considering which Objection, I must allow the first Part, that the *Trade* to the *East-Indies*, carrying out the *Gold* and *Silver* of *Europe*, and
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bringing back Goods not only for *Luxury*, as their *Spices, Teas, &c.* but also *Commodities* ready *manufactured*, their *Linnens* and *Silks* of all kinds, all *consumed* in *Europe*; whereby the *Consumption* of *European Goods and Manufactures* are prevented, and the People consequently *unemploy'd*, such a *Trade* has *exhausted*, and does continue to *exhaust Europe*, and tends only to the enriching the People of *India*, and impoverishing those of *Europe*.

And even Dr. *Davenant* says, “ That as to
 “ the *East-India Trade* in general, if all *Europe*
 “ by common Consent would agree to have no
 “ farther Dealings to *those Parts*, this Side of
 “ the World, by such a Resolution, would cer-
 “ tainly save a great and continual Expence of
 “ *Treasure.*” And goes on afterwards to compute the *Gold and Silver* brought into *Europe* for about 200 Years last past, which he reckons at 800 Millions: And afterwards accounting for this immense Sum, concludes, That 150 Millions of it has been carried away and sunk in the *East-Indies*, and thereupon expresses himself thus;
 “ From whence I have reason to conclude,
 “ that the *European Nations* had been richer by
 “ a full Third than they are, if that *Trade* had
 “ never been discovered and undertaken.”

The vast Loss to *Europe* by this *Trade* being fully own'd, the Disquisition of our Concern in it, and how far the Objection, with respect to us, is well or ill grounded, comes next under Consideration.

That we are concerned in this Loss, Dr. *Davenant* is so far from acknowledging, that he pursues his Argument on this *Trade* in this Manner; “ Since *Europe* has tasted of this *Luxury*, since the Custom of a hundred Years has
 “ made *their Spices* necessary to the Constitution
 “ of

“ of all Degrees of People ; since *their* Silks are
 “ pleasing every where to the better Sort ; since
 “ *their* Callicoës are a useful Wear at Home and
 “ in our own *Plantations*, and for the *Spaniards*
 “ in *America*, it can never be adviseable for
 “ *England* to quit this *Trade* and leave it to
 “ any other Nation.

“ That the Burthen this *Commerce* lays upon
 “ the collective Body of *Europe*, does bear hard
 “ only upon those Countries which *consume* the
 “ *Indian* Commodities, without having any
 “ Share of the *Traffick* ; and that the *English*
 “ and *Dutch*, which together are not a Tenth
 “ Part of *Europe*, enjoy this *Traffick* almost with-
 “ out any Rivalship : And if it be a Burthen,
 “ it lies not upon the One, but on the other
 “ Nine Parts ; so that if the *East-India Trade*
 “ carries out the *Gold* and *Silver* from this Side
 “ of the World, 'tis truly and properly at the
 “ Cost and Expence of *France*, *Germany*, *Spain*,
 “ and the *Northern Kingdoms*, who have little
 “ or no Opportunity of *Trading* thither.

As to the Doctor's Reasonings in the first cited
 Paragraph, I think they are all very insufficient,
 excepting the last, with respect to the *Spaniards*,
 and which nevertheless is against us ; as they
 would probably consume *our* Manufactures, had
 the *East-India* Goods never been introduced
 among them. And as to the last Paragraph, I
 am far from allowing, that WE with the *Dutch*,
 have the sole TRADE to the *East-Indies*, since the
Danes, *Portuguese*, and *French* likewise Trade
 thither, tho' perhaps not so much ; and I must
 also insist, that OUR Trade is not on a level with
 the *Dutch*, in respect to OUR Consumption of those
 Goods, by which Consumption, which is very
 great among Us in comparison with the *Dutch*,
 WE bear at least OUR Part in the General Loss
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that way; besides the *Obstruction* brought to the *Consumption* of our own Manufactures thereby, which is not the Case of the *Dutch*, in any Degree equal to OURS.

Nevertheless, tho' I can't agree with OUR being great Gainers, as the Doctor would infer, by *this Trade*, I am of Opinion, upon mature Consideration of every Particular, that *this Trade*, as I have before said in my Second Part, is not guilty of *exhausting* our Wealth; but that our *Re-exportations* of *East-India* Goods do, in the *Balance* of TRADE with other Countries, compensate Us for the Money paid for them, and which *Trades* we could not carry on so extensively, and to that Advantage, without *East-India* Goods to make up our Sortments, as *those* Goods are now, by the present Channel and Course of TRADE, become *unhappily* necessary for our *Foreign* Markets.

But granting the Objection to have its full Weight with respect to Us *at present*, the Consequence thence drawn on the *laying open* this *Trade*, is by no means just; on the contrary, it would very much enlarge our TRADE in General, encrease our *Navigation*, and add to the Wealth and Riches of this Kingdom.

'Tis certain, that a disadvantageous *Trade* can't be too much *cramp'd*, but to erect select *Companies* is not the most effectual way; that is to be done by the *Legislature's* laying great *Duties* and *Impositions* upon Goods *imported*, or prohibiting the *Importation* of them, as upon *French* Goods, and *Indian* and *Persian* Silks, Stuffs, &c. But how much soever it may be our Interest to *cramp* some Branches of *this Trade*, it can't be our Interest (since other Nations will continue to *Trade* thither) to *cramp* others; for sure I am, 'tis our Interest to encourage the fetching from the *East-Indies*,

Indies, in our own *Shipping*, and in exchange for *our own* Product and Manufactures, *Salt Petre*, *Pepper*, *Indico*, and all *Dying Goods*, *Cowries*, and all kind of *Drugs*, and such Goods as are not *mostly* vendible among *Us*, but *Re-exported* to *Foreign Countries*.

All *Trades* are carried on by *select Companies*, with greater Prejudice to the Nation than otherwise, as they *Export* less of its *Manufactures*, and set *their own* Price upon what they *import*, at the Expence of the People of GREAT BRITAIN: And *this Company* have been more particularly injurious to *Us*, by sending over Workmen of all kinds to *those* Parts, for the *Improvement* of *their Manufactures*, and thereby bringing the EUROPEANS to the greater *Liking* of them, to the *Enlarging* the *Company's* Gain by the Demand of *these* Goods, instead of *those* of the proper *Manufactures* of *Great Britain*: The *Indians* knew little of the *Dying Goods*, or ordering them so as to be fit for our *European* Markets, until the *Company* sent from hence *Englishmen* to teach *them*; and I believe it will be granted me, that the *Company* herein, only considered *their* private Advantage, tho' to the *irretrievable Loss* of the Nation.

But for the laying *this Trade* open, 'tis evident, the more *Traders* to any Country, the more of our *Product* and *Manufactures* will be *exported* thither; that the *less* the *Quantity* of any Goods *imported*, the greater not only the *Expence* to the *Consumers* of any such Goods among *Us*, but our *Disadvantage* in *Trading* with any such Goods to *other* Countries; and consequently the greater the Advantage that *Foreign Nations* (who can have the *same* Goods) must have over *Us* in such a *Trade*; and thereby our *Trade* and *Navigation* be reduced to a much narrower Compass than otherwise it would be.

Sir

Sir *Josiah Child*, a Director of, and great Stickler for, the *East-India* Company, tells us, That in his Time 25 to 30 of the most Warlike Ships, with 60 to 100 Men each, were constantly employed in that Trade; but for some Years past, and at present, I cannot learn there are more than from 10 to 15: 'Tis probable this will be attributed to the Duties and Impositions on all Goods imported, and the Prohibition of *East-India* and *Persian* Silks, Stuffs, &c. but I am free to declare, that the Company being the only Persons who trade to the *Indies*, and the Acts of Navigation preventing any *East-India* Goods being brought from *France* or *Holland* into *Great Britain*, they understand their own Interest too well to carry on so large and extensive a Traffick, as would be beneficial and advantageous to the Nation, and not equally advantageous and beneficial to themselves.

If this Trade were laid open, a much greater Number of Ships, and those the strongest and most Warlike, would be employed in this Trade, which by this Means, would be more extensive and enlarged in Places already Traded to, and to others hitherto unfrequented; and consequently more of our Fellow-Subjects would find Employment both Abroad and at Home; more of our Woollen and other Manufactures would be Exported; and we should have those Goods much cheaper from thence for our own Consumption, which we can't well be without, and do not interfere with our own; and also those which we Re-export, whereby our Traffick with them in Foreign Markets, would be very much enlarged, and the Consumers of those Goods take them from us, which they now do from other Nations.

By this Means, likewise, a very great Coast Trade would be carryed on, and our course and fine Cloths, and other Manufactures, in all Probability, be sold in greater Quantities than hitherto, and a very great Profit would arise to the Kingdom by the *Freight* our Ships will be able to make, in Carrying Goods and Passengers from one Country to another: I am not acquainted what Profit the *Company* have made of these Articles, but I could give Instances of separate Ships, which have been sent out with very small Cargoes, that by trading from Port to Port in the *Indies*, and the Freight they have made, have brought home Cargoes of Goods amounting to 10, 12, and 15 Times the Value of their Outset.

I would desire those who are against this Trade being laid open, as thinking the Nation would be thereby the more exhausted, to examine what Commodities are brought from those Parts of the *East-Indies*, that take from us the greatest Quantity of our Product and Manufactures, and in return give us Commodities that we can't well be without; that are partly re-exported, and that do not interfere with, or hinder the Consumption of our own; and what from those Parts, to which we chiefly Export Gold and Silver: Upon Enquiry, it will be found, that those People who take from us most of our Product and Manufacture give us in return Salt-Petre, Peper, Couries, &c. Indico, and other Dying Goods, as well as Drugs of all kinds, and very often Gold and Silver, particularly the former, which is afterwards exchanged for Goods at *Madras*; and that those Places to which we chiefly send Gold and Silver, give us, in return, Goods manufactured, interfering with,
and

and hindring the Consumption of our own, or such as serve us only for Luxury, and whereof a very small Value is re-exported to Foreign Countries independant of *Great Britain*.

Therefore, from what is here said, the laying this Trade open appears to be the Interest of the Nation in general ; and though the same should be now carried on to our Disadvantage, would be the contrary then ; especially if we are as careful as our Interest obliges us to be, to encourage the different Trades to some of those Places, and with some of those People, and to discourage it to, and with others : and if this Trade was laid open, under proper Regulations and Restrictions by the Legislature, (whose Business is to discourage the trading to all disadvantageous Parts of *India*, by Duties on Commodities serving only for Luxury, or interfering with or hindering the Consumption of our own Manufactures) the Nation would be so far from being thereby the more exhausted, that a more extensive and beneficial Trade would be carried on, and greater Employment given to our Navigation and Seamen ; for when a Trade is confined to a few, who are in no Apprehension to be outdone by any Rival, they are not like to take extraordinary Pains to improve it ; whereas, when many carry on a Trade, their Industry and Ingenuity are always at work to outvie one another ; and 'tis to this we owe the Encrease of our Trade in the Course of a hundred Years past, and the Extensiveness of our Commerce at present.

I hope this may be sufficient to satisfy any who have been against laying this Trade open, in a regulated Company, on Account of any National Disadvantage thereby apprehended ; but

if any lesser Objections should be made, such as the Necessity of maintaining Forts, Garrisons, &c. making Treaties and Alliances, Presents, &c. as now practised by the *East India* Company, and absolutely necessary for the Preservation of this Trade, and useful on many other Accounts; I don't think them deserving any further Consideration than only putting this Query.

Whether the Government, or a Number of Gentlemen that a regulated Company shall be composed of, cannot apply Money to the Maintenance of Forts, and Castles with good Garrisons, as well as a Number of Gentlemen that an exclusive Company is composed of; and if the Servants of the Government, or the Factors of a regulated Company, cannot do all that the Servants or Factors of an exclusive Company can do, touching Trade, Presents, and Alliances, &c.

The Increase and Support of our Foreign Trade was the chief Care of our wise Ancestors, from whence has arisen all those Animal Spirits, those Springs of Riches, which has enabled us to spend so many Millions for the Preservation of our Liberties; and we ought rather to take Measures for the sake of our Posterity, than suffer any Branches of our Trade to continue under Monopolies, the Badges of a slavish People, and always the greatest Grievances to the *British* Nation.

This we should not be long without finding Means of doing in an honest and equitable Manner, if we duly considered how many Thousands, if not Millions, there are, whose Lot Providence hath cast on Trade for their Livelihood. If another Company (such an one as either

ther of these) should be erected, I do not see what the major Part of the People must do for Maintenance. Nothing has hitherto given so great an Encouragement to the Commerce of *Great Britain*, as our Gentry's bringing up their Children to Foreign Trade; but if exclusive Companies or Monopolies are suffered, the Consequence must be, that in Peace they must send their younger Sons abroad, either to be bred up in Foreign Armies, and fight other Nations Quarrels, or to other Countries to learn Trade and settle there.

The laying open of all Trades, either wholly, or under regulated, not exclusive Companies, would without doubt produce to this Nation, Markets for all its Manufactures; and so great a Trade as this must bring, would enable us easily to work almost all other Countries out of Trade, and would encrease the Navigation in an incredible Manner.

To curb or restrain our own Subjects from their natural Right and Liberty of seeking their Livelihoods, by erecting select Companies to carry on particular Trades, is the most impolitick of any, in a wise and free People: And if we consider how the Trade of *Great Britain* is cramped, we have no Reason to wonder, if in a short Time it loseth many considerable Branches of its Foreign Traffick.

This is certain, we cannot prosper but by the Means of those who are industrious; and it is notorious, all Companies are unwilling to drive any Trade longer than it yields excessive Profit, which by being open, would not be the Case; for if some Merchants should leave off trading to any Country, others would immediately fall into it; and though the over-stocking
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of a Country with Goods, may lessen the Gain of particular Merchants, yet it is an Advantage to the Nation in general, and must be looked upon as an Effect of a great and encreasing Trade; and it may deserve Notice, that tho' Companies may sell their Goods dearer than if a Trade was free and open, yet the other Inhabitants must by consequence bear that Loss.

And if our Merchants and Manufacturers, Owners of Ships and Freighters, who are burthen'd with such high Duties of Customs and Excises, are yet to be oppress'd more by the Monopolies of Companies, it may be easily foreseen what is likely to be the Fate of the Trade of *Great Britain*, and all its Manufactures. And for so many to believe it redounds to the Good of this Kingdom to carry on a Trade by exclusive Companies, is to me incomprehensible; and I trust a true *British* Parliament will not suffer any such to be long in Being.

F I N I S.



